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AUTHORIZATIONS OF APPROPRIATIONS FOR THE U.S. INTERNATIONAL TRADE COMMISSION, THE U.S. CUSTOMS SERVICE, AND THE OFFICE OF THE U.S. TRADE REPRESENTATIVE

HEARING

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

MARCH 12, 1984

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BUDGET REQUESTS OF THE CUSTOMS SERVICE, INTERNATIONAL TRADE COMMISSION, AND THE U.S. TRADE REPRESENTATIVE'S OFFICE

MONDAY, MARCH 12, 1984

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL TRADE,
COMMITTEE ON FINANCE,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:33 p.m. in room SD-215, Dirksen Senate Office Building, Hon. John C. Danforth (chairman) presiding.

Present: Senators Danforth, Chafee, Heinz, Bentsen, and Matsunaga.

[The press release announcing the hearing and Senator Heinz' and Senator Bentsen's statements follow:]

[Press release from the U.S. Senate, Committee on Finance, Subcommittee on International Trade, Feb. 10, 1984]

SUBCOMMITTEE ON INTERNATIONAL TRADE SETS HEARING ON BUDGET REQUESTS OF THE CUSTOMS SERVICE, INTERNATIONAL TRADE COMMISSION, AND THE U.S. TRADE REPRESENTATIVE'S OFFICE

Senator John C. Danforth (R., Mo.), Chairman of the Subcommittee on International Trade of the Committee on Finance, today announced that the Subcommittee would hold a hearing on Monday, March 12, 1984, on the requests for authorizations of appropriations for fiscal year 1985 of the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative.

The hearing will commence at 2:30 p.m. in Room SD-215 of the Dirksen Senate Office Building.

STATEMENT OF SENATOR JOHN HEINZ

This hearing gives us an opportunity to address the insufficient resources available to the Customs Service for the enforcement of U.S. trade laws and international trade agreements. For some time now, the situation in America's major ports has been characterized by a decreasing pool of Customs personnel, particularly import specialists, and an increasing volume of imports. The predictable result of these diverging trends has been a serious compromise of U.S. trade law at a time when there is increasing pressure of foreign suppliers to gain access to the U.S. market. Staff reductions have also resulted in large revenue losses. While merchandise imports increased by 22% in 1983, total collections from tariff and trade activities declined by $195 million.

A prominent, if unfortunate, result of these trends is the massive amount of steel import fraud currently being committed primarily by large overseas trading houses. An investigation conducted by the House Energy and Commerce Oversight Subcommittee, as well as my own work, has shown that efforts of the Customs Service to combat commercial fraud are not sufficient. In addition to general austerity cutbacks, the Customs Service has been shifting its manpower priorities away from trade law enforcement to such problem areas as narcotics and contraband smuggling. Those resources which have been directed toward fraud, primarily through

the Commercial Fraud Center, commonly called Operation Tripwire, have fallen short of what is needed to properly enforce trade regulations and prosecute violators.

In my view, it is imperative that additional resources be allocated specifically for the purpose of combating fraudulent imports. In addition to increasing the effectiveness of the Customs Service in enforcing our trade laws, such an increase will yield revenues far in excess of funds spent. Generally speaking each additional dollar spent in Customs operations yields an average of $18 in revenue. Moreover, because of the widespread nature of fraud and the potential for the collection of substantial penalties from violators, resources devoted to fraud are even more cost beneficial. Indeed, last year Operation Tripwire returned $150.00 for each one dollar spent (not including salaries). In FY 83, for example, an increase of $70,000 in enforcement resources yielded $31 million in collected duties and fines from violations. Similarly, the additional resources devoted to commercial fraud this fiscal year of $105,000 has thus far yielded $15 million in collected revenues with a promise of further success through the end of the year.

Unfortunately, there is overwhelming evidence that these increases are insufficient to deter fraud. Mr. White also revealed in his testimony that Operation Tripwire has recently undertaken four new cases involving new types of fraud from new sources. Obviously, the problem demands a more vigorous response that heretofore received.

It is my recommendation that increased resources be allocated to combat this problem which is damaging sectors already reeling from unfair trade practices of the past. In addition to an increase in funding to the Customs Service, stipulation should be made as to the levels of import specialists which should be maintained in America's ports as well as the commodities to which their attention should be directed. This Committee as well as the full Senate have approved amendments I have proposed to increase Customs' resources for import fraud detection and enforcement. I intend to offer such amendments again this year.

STATEMENT BY SENATOR LLOYD BENTSEN

Mr. Chairman, this morning we are considering legislation to authorize three trade agencies for fiscal year 1985, the U.S. Trade Representative (USTR), the U.S. International Trade Commission (ITC), and the U.S. Customs Service. I am most concerned about the proposed budget for the U.S. Customs Service, and I want, therefore, to confine my opening statement to that submission.

If this customs budget is to be believed, then the Service will cut expenditures by $23 million and eliminate about 7 percent of its workforce, yet still collect revenues at a faster rate than in the past, give speedier processing and better defend our borders against illicit importations and exportations. It appears that it helps to read this budget through rose-colored glasses.

The realities are that even using the Customs Service estimates, the value of importations will increase by 9 percent in FY 1985, to over $323 billion. Customs itself predicts that the fines, penalties, and forfeitures caseload will increase by up to 40 percent in that period. Air passenger workload will increase 17 percent from FY 1983 to FY 1985 and Customs will process something over 300 million individuals.

However, their productivity is already declining. In terms of "dollars collected" per dollar appropriated, the Customs Service return has fallen $2.00 since 1979. In 1979, we were getting $19.05 per every dollar appropriated to the Customs Service. Last year it was $17.01. Four hundred personnel positions were removed last year in the appropriations process, Mr. Chairman. This decrease is most disturbing given the fact that the Customs Service is one of the few Federal agencies which brings in revenue to the Government. Therefore, it seems that we must act to increase personnel numbers in order to retain adequate revenue.

Most important, Mr. Chairman, of the 954 positions to be eliminated in this FY 1985 budget proposal, 625 will be on the front line of the Customs process. These are the inspectors who inspect the people and cargo and the import specialists who inspect the paper flow that accompanies importation. They constitute the two critical links in the customs process. We now inspect less than one percent of the cargo imported into the United States. Four hundred fifteen fewer inspectors on the line means we will inspect even less.

This is also the front line of customs enforcement. I am told inspectors make 70 percent of all customs arrests, 70 percent of all hashish seizures. The popular image of the inspector peaceably reading passports and making chalk marks on baggage is

just not the case: two of them have been killed in the line of duty in the last five years, one in Texas.

On the paper side, we now audit less than 50 percent of the import documents submitted by customs brokers and other importers. These forms are the tax returns of the customs process, and 210 fewer import specialists mean that many fewer returns are audited.

I understand and agree with the basic premise that the Service should use computers to improve the quality of the selectivity it uses. But you can take these things to extremes. The job of Customs is increasing faster than these productivity improvements can keep up. I have seen estimates that improvements in productivity can absorb a 3 percent workload increase, not the 9 to 17 percent workload increase we expect.

Moreover, the computers themselves, particularly the automated commercial system which is the heart of the tariff and trade system being developed by the Customs Service, has only just come on line. I do not think this is the time to be cutting people. If anything we should be adding personnel. We added IRS auditors last year to improve the Internal Revenue take at the suggestion of the administration. I wonder why the administration thinks the situation is any different in the Customs Service.

In addition, the Service proposes cuts in the enforcement side of its operations. As I have said, the inspector force is the front line of the enforcement effort, as well as the duty collection effort. But in addition to losing those 415 inspectors, the Service proposes to cut its laboratories, its marine patrol officers and vessels, and its regional patrol staff. It proposes to reduce the size of Operations Exodus, which is supposed to control elicit exports of high technology equipment to our Communist adversaries by almost half. So we are not robbing Peter to pay Paul; We are robbing both of them. Both the enforcement and the commercial activities of the Service will be reduced under this budget.

The real impact of this budget will be felt in towns and cities along our border with Mexico. These areas have historically been among the worst-off in the country, but their problems have been escalated to a national tragedy in recent years by the economic troubles in Mexico.

The flow of trade across the border, the lifeblood of this region, has dwindled. The proposed cutbacks in customs personnel at border crossing points would reduce the flow even further, forcing those citizens of Mexico who can still afford to buy in the U.S. to submit to lengthy delays. Because of the lack of customs personnel, there will be fewer lanes at border crossing points, like Laredo which handles more passengers each day than JFK Airport in New York, open to process persons wishing to visit the United States.

I fail to understand how an administration which professes to be concerned about the economic tragedy along the border with Mexico can add to the woes of that area by proposing additional cuts in customs.

Moreover, the commercial public will be ill served by these personnel cuts. Moving import specialists out of the local ports and into regional and district offices may appear to be efficient, but what does the businessman do who wants to know how to classify products he is about to import? A long distance telephone call will not always suffice, and he should not be forced to bet millions of dollars of import fees on the guesses of a customs broker. Moving the import specialists out of his local area means increased costs, lost time, and uncertainty.

So, Mr. Chairman, I am very concerned by this budget. And let me say two other things:

First, we were not able to get an authorization bill enacted last year. I believe that since this problem of reductions in force seems to be coming up every year, we ought to consider this budget closely and when we have agreed on an authorization bill, work together to try to get it enacted so that we can get some control over this agency.

Second, you and I sent a letter to the Commissioner a few weeks ago asking for port-by-port and district-by-district implications of these personnel cuts. I ask unanimous consent that a copy of that letter be placed in the record of this hearing. I do not have an answer to that letter yet, but I hope one will be forthcoming during this hearing. I can tell you that in the border areas of Texas, which are suffering an economic depression, the Customs Service is one of the most important programs of the Federal Government.

Mr. Chairman, in closing, I am most concerned about this proposed budget. The Customs Service budget is not helpful, it is not realistic and I will do everything in my power to change it.

Senator DANFORTH. Bob, it is good to have you back.

STATEMENT OF AMBASSADOR ROBERT E. LIGHTHIZER, DEPUTY U.S. TRADE REPRESENTATIVE

Ambassador LIGHTHIZER. Thank you, Mr. Chairman.

Mr. Chairman, I am pleased to appear before the subcommittee to present our resource needs for fiscal year 1985. With me is John Giacomini, who is the Director of our Office of Management, and Doug Newkirk, our Assistant U.S. Trade Representative for GATT Affairs.

I would like to present to the committee a brief summary of our resource needs and submit a longer, more detailed statement for the record. Then, we can address any specific questions you or the members of the subcommittee may have on the budget or on the harmonized code.

As you know, we have pending two supplemental budget requests for fiscal year 1984. The first is a $128,000 supplemental to cover the legislated pay raise and medicare costs. And the second is a $511,000 supplemental to finance the initial stages of the harmonized code negotiations.

Our fiscal 1985 request is $14,179,000. This is a $2,680,000 increase over the 1984 base. Nearly 60 percent of this increase is to finance our efforts to negotiate the harmonized code. These costs include the transfer of personnel to Geneva, renting office space and equipment, printing, and computer programming. The other 40 percent of the increase is to meet operational needs and to pay uncontrollable costs such as rent, utilities, and general price level adjustments. Indeed, about half of this extra amount is due to the rent increase alone.

As you can see, the harmonized code will require a substantial utilization of our resources in 1985. In light of this fact, I would like to discuss what is involved. In the 1974 Trade Act, we were required to participate in the development of internationally agreed tariff nomenclature—the harmonized code system. USTR will lead these negotiations, which we expect to formally begin in Geneva in 1985.

Negotiating the code is an enormously complex undertaking involving interagency coordination, soliciting private sector advice, intensive international negotiations, and of course, thorough consultations with the Congress. We have broken our work into four phases. Line-by-line review of the ITC's proposed conversion of the U.S. tariff schedules, data preparation to support negotiations and review of foreign country conversions, international negotiations, and congressional approval. Our timetable calls for the completion of the first phase by the end of this year, and we hope to complete negotiations in 1985. This new tariff schedule is to take effect on January 1, 1987.

Mr. Chairman, we have a considerable amount of work ahead of us, and we hope the committee can act affirmatively on our budget request. If you or other members of the committee have any questions, I would be glad to address them or have Mr. Giacomini or Mr. Newkirk supply answers. Thank you, Mr. Chairman

Senator DANFORTH. Thank you very much.

[Ambassador Lighthizer's prepared statement follows:]

TESTIMONY OF ROBERT E. LIGHTHIZER, DEPUTY U.S. TRADE REPRESENTATIVE

Mr. Chairman, I am pleased to appear before you to present our resource needs for fiscal year 1985 and to respond to your question. With me is the Director of our Office of Management, John Giacomini, our assistant United States Trade Representative for GATT affairs, Doug Newkirk, and our assistant United States Trade Representative for Congressional Affairs, Bill Maroni.

Since last year, we have had several organizational changes which I believe most of you are aware of: We now have two deputies in Washington, Ambassador Michael B. Smith who is responsible for bilateral and multilateral activities; I am responsible for sectoral activities. Ambassador Peter Murphy now heads our Geneva Office while Richard Imus is our new chief textile negotiator.

The President's budget and the resource request which we submitted to you contain several items which I would like to explain briefly.

Our current fiscal year 1984 appropriation does not include two supplemental requests. One is for a pay supplemental of $128,000 to cover the recent raise legislated by Congress and medicare costs. The other supplemental request of $511,000 would provide funds essential for the initial stages of preparing for U.S. adoption of the harmonized code system or HCS. I believe most of you are acquainted with the goals of the HCS—a new international tariff nomenclature which will facilitate international trade transactions. Widespread adoption of the HCS will reduce the cost of reporting for U.S. producers, promote uniformity and certainty in customs classification, and increase the accuracy of trade statistical reporting systems.

It is an enormous, complex undertaking, and involves interagency coordination as well as intensive negotiations and planning with other nations. The four phases of the administration's work program are: line-by-line review of the ITC's proposed conversion of U.S. tariff schedules, data preparation to support negotiations and review of foreign country conversions, negotiations in Geneva and largely through the GATT, and congressional approval followed by implementation.

We have been dealing with this issue since 1970. The 1974 Trade Act required our full participation in the development of the nomenclature since the HCS will be treated as an international trade agreement. The USTR will lead the negotiations, which we expect to formally begin in Geneva in 1985, and handle the details involved in arriving at an agreement under the auspices of the GATT.

Our timetable calls for completion of the U.S. conversion and review of foreign conversions by the end of this year. We hope to complete the Geneva negotiations during 1985 so that we can use all of 1986 to prepare ourselves for an implementation date of January 1, 1987.

To date, we are meeting our schedule. We have held public hearings on the tariff conversion process in several cities and have established data base contacts in the GATT so that the review of foreign country conversions will be coordinated with the overall effort of our line-by-line review, mentioned above, which began in January. Other agencies which are cooperating in the HCS project are the International Trade Commission, the Department of State, Commerce including the Bureau of the Census, Agriculture, Treasury including the U.S. Customs Service, and Labor. All are committing resources to the program. Currently we have individuals on detail to USTR. We would be pleased to provide you with our HCS timetable.

For fiscal year 1985, the actual increase over the 1984 base is $2,680,000. Of the total request, $1,534,000 is for the harmonized code, for expenses at the peak of scheduled activities. Several significant items will be the transfer of personnel to Geneva, rental of office space and equipment, printing and reproduction of HCS materials, and computer equipment programming tasks to provide a strong information base for international negotiations. The remainder of the request is designed to maintain an operating level similar to fiscal year 1984, and to accommodate general price level adjustments plus uncontrollable increases for essential expenses such as communications, rent, and printing.

Beginning in fiscal year 1983, we were allowed to operate under one ceiling of 133 permanent positions for a full time equivalent employment or "FTE" of 133 workyears. This gave us the flexibility to use our "FTE" in a manner which best suited our needs and to create greater stability among essential staff by converting selected positions to permanent status. For fiscal year 1984, we have 137 FTE's, and for fiscal year 1985 we are requesting one additional "FTE" for a total of 138. This will provide for a position to cover the development of the HCS computer program.

I would like to update you on funds which you provided us for fiscal year 1984, earmarked for word processing equipment and for followup projects on a special study we did in 1982 to provide guidance on how we can develop the best U.S. trade negotiators. For the word processing equipment, we are in the final evaluation

stages of vendors' proposals. The funding will be used for microcomputers and related training and maintenance, and for equipment needed to network into existing computer facilities. The funds provided for career development will be utilized to formulate in-depth assessments of the job-related needs of a selected group of mid-level professionals and to identify appropriate courses and seminars to enhance their background and knowledge for trade negotiations.

To supplement our permanent staff and to hold down personnel costs, we are continuing our successful, volunteer university intern program. Last fiscal year we had more than 280 applicants; we accepted 45 from seventeen different universities. We conduct this program on an informal basis to hold down costs, and the need for additional staff to run a formal program. This effort saved us salaries and related costs of more than $120,000. Other savings were effected by acquiring details on a nonreimbursable basis, by participating in an interagency "program pool" for specialized computer program needs, and by closely monitoring travel.

We are using every means possible to increase productivity and managerial effectiveness with the resources we have been given. We are continuing to exercise tight control over expenditures especially for overtime, travel, and procurement, with our senior staff playing a direct role in this daily process. We have also complied fully with the requirements of the Federal Manager's Financial Integrity Act of 1982 by submitting positive reports both to the President and to the Congress on internal accounting and administrative controls.

Mr. Chairman, we believe that our request is a very reasonable one and reflects budget constraints even with continually rising workloads. Any reduction of our resource request will seriously affect our capability to do the job assigned to us. With the requested resources we will be able to implement our schedule for the harmonized code system and to pursue the commitment of the administration and the Congress to economic growth and a strong economy.

I would be pleased to respond to your questions.

Thank you.

Senator DANFORTH. I do have a couple of questions.

The first one on the harmonized code—this is, as Federal matters go, relatively small as a cost item, but it is fair to say, isn't it, that it is going to be somewhat complicated and controversial?

Ambassador LIGHTHIZER. Yes, Mr. Chairman. We think it will be very complicated, but hopefully not too controversial.

Senator DANFORTH. As I understand it, it is not intended to make any substantive changes—it is simply a redefinition.

Ambassador LIGHTHIZER. That is correct, Mr. Chairman.

Senator DANFORTH. I guess my question is—is this trip necessary? Do you view this as an important matter that we should be proceeding with? Are we so far along now that we have to be doing it?

Ambassador LIGHTHIZER. It is our view and, of course, the view of the Congress over the last 10 years that putting the entire world on the same system will facilitate trade, and economic advantages will flow to the U.S. economy from the resultant increase in trade. So, we still have that view. We think it will be helpful.

Senator DANFORTH. We had hearings a week or so ago on the proposed new Department of Trade, and one of the comments that was made by some of the witnesses at that time was that USTR now has 130 or so people, and I see you only want an increase of one additional person, up to a total of 138. At least one point of view was that it should be even smaller than that, that USTR should not be a place where people have great expertise or narrow knowledge on a limited subject, but it should be a place for generalists, for true brokers of different interest groups, and that something is lost when the USTR's personnel becomes more and more specialized. Is that point well taken or not? In your judgment, should you have more people, less people, or is 138 just right?

Ambassador LIGHTHIZER. First, Mr. Chairman, I agree with the sentiment expressed—that USTR should not be in a position of developing or maintaining great amounts of expertise that merely duplicate what other agencies do. Now, I am sure you won't be surprised by my feeling that 138 is about the right number. There is some minimum amount of expertise that you need. There are times when you have to pick up the phone and call someone in your own shop who is at least following reasonably closely some current matter. And, when you have the responsibility for a wide variety of issues—like we do—it requires a certain amount of staff just to coordinate the work of the other agencies. So, our view is that 138 is about the right number.

We have spent time, I should tell you, at the senior staff level talking about this point. There have been some very bright commentators who have suggested that we could get by with fewer people. My own sense, after a year, is that that would be very difficult. But, this is something that is under constant review. The general idea that we shouldn't duplicate a lot of expertise at the Commerce, State, or Agriculture Departments is certainly something that we subscribe to.

Senator DANFORTH. Now, if Senator Long were here, he would probably ask you about your selection and training of people and how you get really first-rate negotiators, how you attract them, how you train them, and how you keep them. Do you think that USTR is doing what it should in making sure that we have a crack team of very able, well-trained people who know how to go about the business of negotiations?

I know one thing that has impressed me when I have gone to Geneva and talked to both arms negotiators and trade negotiators is that oftentimes the people with whom we are negotiating have been there for years, and they are chosen and retained for a long period of time because of their knowledge and their ability. Are we doing what we should in that connection?

Ambassador LIGHTHIZER. Mr. Chairman, I know that this is something that Senator Long and a number of other members of the committee have expressed interest in and concern about over the last several years. Now, we are making an effort to try to improve the training of our negotiators. To some extent, the difference in age and experience between the U.S. negotiators and those of other countries is a product of the general system. I can speak with some experience on that, having negotiated the U.S.-U.S.S.R. Long-Term Grain Agreement with a Russian negotiator who'd been negotiating for his government since some time soon after I was born, as near as I could tell. He was very able. But, it would be very unlikely for an American to be in the same position when he is 65 years old. I think some of it is just the difference in our system, but this is something that we have focused on.

Senator Long asked us and the committee asked us to do a feasibility study of what kind of a curriculum we could put together to improve our status in this area—which we did in 1982. We are now in the process of utilizing part of our appropriation in 1984 to develop an appropriate curriculum for our negotiators to follow to enhance their background and knowledge. This is a very important part of training people and having the best possible negotiators on

behalf of the United States that we can have. Hopefully, by the beginning of 1985 we will have that kind of program as a requirement for our negotiators. It probably won't change the fundamental age differential, but it will be a major step forward and something that we feel very strongly about.

Senator DANFORTH. I don't think that age is necessarily the criterion for anything, but I am heartened to know two things. One is that USTR does not view itself as being a burgeoning bureaucracy and that you are going to try to keep it small and keep it just as generalized as possible.

Second, I am pleased that you are going to try to make it really a crack corps of people who are able to work out deals, negotiate arrangements with other countries. That, to me, is the beauty of the USTR, and I am gratified to know that you are on this track.

Ambassador LIGHTHIZER. Thank you, Mr. Chairman.

Senator DANFORTH. Senator Heinz?

Senator HEINZ. Mr. Chairman, I don't have any questions except this one. I would just like to get this on the record from Mr. Lighthizer. If the Congress were to agree to the President's proposal to create a Department of International Trade and Investment, would that result in a budget saving where the activities of the U.S. Trade Representative is concerned?

Ambassador LIGHTHIZER. I just don't know the answer to that question, Senator.

Senator HEINZ. Would you anticipate any lessening of your responsibilities in such a combined Department?

Ambassador LIGHTHIZER. My understanding of the plan the President has submitted incorporate the Office of U.S. Trade Representative into the new department. And I guess my own sense is that our functions are not now superfluous. Presumably, there would be some overlap that could be eliminated, but it would be very difficult for me to quantify it. I think that the President's proposal contemplates keeping this office active, so I would have to assume that this savings would be small, but I really don't know the answer to the question, Senator.

Senator HEINZ. Thank you.

Senator DANFORTH. Senator Bentsen?

Senator BENTSEN. Mr. Chairman, I share the concerns about the revolving door that appears to be in operation over at the USTR. Time and time again, I see some very bright and very able people on the staff of the USTR, and then along comes the private sector and hires them away. When we had Malcolm Baldridge before us here recently, I went into that in some depth, trying to find out what he is talking about doing if a new Department of Trade was established, and there was no clarity as to what program was to be put in place for training and retention. Those of us who have attended a number of those negotiations—whether it be Geneva or otherwise—have seen time and time again just what Bob Lighthizer is talking about—someone on the other side of the table who knew where all the bodies were buried.

When our representative brought up a case, they then brought up something that was decided several years earlier, and why it turned out the way it did. And it was very difficult for our negotiator to contradict that or know the facts not having been there at

the time. So, I, too, would like to emphasize that if there is a way that we can structure this to try to retain as much as we can—some of these very bright and able people that come into that role—I certainly want to support it in every way I can.

Ambassador LIGHTHIZER. Thank you, Senator.

Senator DANFORTH. Senator Matsunaga?

Senator MATSUNAGA. Thank you, Mr. Chairman. Mr. Ambassador, and it is good to be able to call you that, Bob.

Ambassador LIGHTHIZER. Thank you, Senator.

Senator MATSUNAGA. I remember that you served as a member of the staff of this committee, and since I usually don't have the opportunity, I want to thank you for your kind expressions of concern when I was taken ill recently.

I have taken a great interest, along with the Governor of Hawaii and others, in the exchange of high technology between Japan and the United States. Japan has expressed interest through the Consul General in Honolulu. I wish you would pursue this because I think it has come to a point where the Japanese realize that they have got to give and not only take. And one of the areas in which they feel that they can give is in high technology, such as in deep seabed mining using robots, and in the area of ocean science, as in ocean thermal energy conversion.

I think we can greatly benefit from the trade in technological ideas, and much as we would hate to admit it, I think we have lagged in this area, and we can learn from others as well. The State of Hawaii has already established a center for high technology—the Pacific International Center for High Technology Research in May of this year—we are planning on a symposium to which all of the Pacific nations will be invited.

Japan is waiting for expressions of some interest at the national level. While they have expressed keen interest to State officials in contributing to the program in Hawaii, they, the Japanese, feel that they ought to be dealing on a nation-to-nation level and not a nation-to-State level. So, I would appreciate it if you would look into this and maybe some expression of interest from your office might help in expediting the development of this center.

Ambassador LIGHTHIZER. We will certainly do that. We agree completely that there are enormous benefits that would flow to our economy from technology exchanges with the Japanese particularly, but with others also. And we will certainly follow up on that and work with your staff to express at the Federal level our support for and an interest in this program.

Senator MATSUNAGA. Thank you very much.

Ambassador LIGHTHIZER. Thank you, Senator.

Senator DANFORTH. Thank you, Mr. Ambassador.

Ambassador LIGHTHIZER. Thank you, Mr. Chairman.

Senator DANFORTH. Next, we have Commissioner von Raab.

STATEMENT OF HON. WILLIAM VON RAAB, COMMISSIONER OF CUSTOMS

Mr. VON RAAB. Thank you very much, Mr. Chairman, for this opportunity to appear before you and members of your committee. I will take this opportunity to introduce the gentlemen who are with

me. On my immediate right is Mr. Alfred De Angelus, Deputy Commissioner. To his right is Mr. George Corcoran, Jr., our Assistant Commissioner for Enforcement. To his right is Mr. Eugene Mach, our Assistant Commissioner for Inspection and Control. To my left is Mr. William Russell, our Comptroller. And to his left is Mr. Robert Schaffer, our Assistant Commissioner for Commercial Operations.

We appreciate this opportunity to appear before you today to present the fiscal year 1985 authorization request of the U.S. Customs Service. We are requesting $602,405,000 and 12,369 direct average positions. This total includes $585,335,000 for our regular appropriation and $17,070,000 for operation and maintenance of customs air program.

I have a longer statement that I would, with your permission, submit for the record and present a shorter statement.

Senator DANFORTH. Yes, sir.

Mr. VON RAAB. In line with President Reagan's efforts to lower the cost of our Government, our fiscal year 1985 authorization request is $23,499,000 less than our requested level for fiscal year 1984. In our fiscal year 1985 request we have included $16,994,000 for program enhancements and other initiatives. These are primarily for ongoing automation programs and for protecting the communications of our law enforcement officers. Also included is $35,134,000 for increases necessary to maintain current operating levels and program reductions and nonrecurring expenses of $75,627,000. As we stated on previous occasions, Customs continues to adhere to President Reagan's program for strengthened law enforcement and better management of Government resources. Accordingly, Customs objectives are to implement the following: Increase staff productivity by developing and implementing automated systems wherever possible, in all merchandise, revenue collection, and enforcement processing; reduce administrative inefficiencies by consolidating functions and organizations, eliminating duplicative activities and unneeded paperwork and forms, and simplifying internal and external processing procedures; and improve overall enforcement efforts against all illegal activities for which Customs is responsible.

In fiscal year 1985, Customs is continuing on a high priority basis to press forward on long-awaited and much needed reform of commercial practices. In essence, how we implement the tariff laws and how we process the vast quantities of imported merchandise. In meeting our goals in commercial processing, we are pushing forward determinedly with centralization, automation, and streamlining of all applicable operations.

The initiatives in this budget emphasize the development and implementation of the customs automated commercial system, which is the key program in this effort. Phase I of system development was completed in December 1983, and it was already operational nationwide on February 1, 1984. This system, when fully implemented, will revolutionize the way people do business with Customs. It will speed up processing and reduce operational costs for both Customs and the international trade community.

Simplification of forms, paperwork, and procedures will reinforce automation and help to speed up the cargo clearance process. We

have underway a major project to consolidate our data processing functions into a single computer environment. We believe it will eventually permit us to dramatically improve customs import processing and implement new methods of collecting duties.

With regard to drug enforcement, fiscal 1983 was a banner year. The President's drug strategy is working, and the amounts of heroin and cocaine seized last year set new records. Heroin seizures reached 594 pounds, up 105 percent over the previous year. These results largely reflect intensified inspections at airports, especially in cargo, as well as the development of improved inspectional techniques. Similar results have been achieved with regard to cocaine smuggling. I am proud to commend customs enforcement groups for the outstanding results produced during the past 3 years. In 1982, we seized 11,150 pounds of cocaine, an increase of more than 200 percent above the previous year, and in fiscal year 1983, seizures reached 19,602 pounds, more than 400 percent above 1981 and 76 percent over the previous record year of 1982.

In terms of disruption of organized smuggling groups, we have taken off the streets $5.3 billion of cocaine sales and prevented these criminals from pocketing the profits. Mr. Chairman, I must underscore that this success would not have been so great without the strong encouragement we have received from President Reagan and the personal involvement of the Vice President. Customs efforts against drug smugglers have been only a part of our law enforcement program. President Reagan has also called on us to shut the open door through which the Soviet Union is stealing American technology. The Customs Service has responded, on a priority basis, with the highly successful program we call Operation Exodus. This past year has seen us further perfect our investigating methods and bring more violators of U.S. export laws to justice.

Recently, we concluded a rather spectacular investigation, which received worldwide media coverage, of an illegal technology transfer with the return from Germany and Sweden of two large shipments of highly advanced computers that would have given Soviet weapons a technological boost the West just cannot afford. Although we are reducing our budget and our work force, Customs remains committed to a strong enforcement posture to improved cost effectiveness, and to better serve the American public through a more modern Customs Service.

Mr. Chairman, this concludes my introductory statement. I would be happy to answer your questions and those of other members of your subcommittee.

Senator DANFORTH. Thank you very much.

[Mr. von Raab's prepared statement follows:]

U.S. CUSTOMS SERVICE

STATEMENT OF WILLIAM VON RAAB

COMMISSIONER OF CUSTOMS

FOR PRESENTATION BEFORE THE SENATE FINANCE COMMITTEE,

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. Chairman and Members of the Committee, we appreciate this opportunity to appear before you today to present the U.S. Customs Service FY 1985 authorization request of $602,405,000 and 12,369 direct average positions. Included in this total are $585,335,000 for "Salaries and Expenses" and $17,070,000 for "operations and maintenance" for the air program.

Customs overall FY 1985 authorization request represents a net decrease of $23,499,000 from the funds requested in FY 1984. Included in the FY 1985 consolidated authorization request is $16,994,000 for program enhancements and other initiatives, primarily for ongoing automation programs as well as for protecting the communications of our law enforcement officers, $35,134,000, for increases necessary to maintain current operating levels, and management efficiencies and non-recurring expenses of $75,627,000.

The efficiencies to be achieved in FY 1985, represent improvements in commercial and enforcement activities as well as updated approaches for achieving Customs mission. These programs, when fully developed and implemented, will improve

productivity, streamline program operations, and enhance organizational and functional efficiency, and abolish duplicative activities. Many of the efficiencies result from our efforts to convert labor intensive functions to more automated processing. In total, these actions will permit the reduction of 923 direct positions and 954 average positions.

MAJOR ACCOMPLISHMENTS

The Customs Service, once the main source of federal monies, still continues today to collect significant revenues as well as to assume the responsibility for interdicting drugs and other contraband attempting to illegally enter the country. Although the primary objective of the Tariff Act is the protection of American industry, revenue collections from its enforcement produced $9.9 billion in FY 1983, representing a return of more than $17 for every appropriated dollar spent by Customs in carrying out its responsibilities.

As usual, Customs also had a busy year processing a heavy volume of traffic and trade generated by a growing international economy. The dedicated Customs workforce cleared some 283 million persons, 5.3 million merchandise entries, up 13%, and more than $246 billion in cargo entering the country. In addition, about 90 million vehicles, vessels, and aircraft were processed. Projections for FY 1985 indicate renewed growth and a continuing heavy workload in the future.

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As I stated on previous occasions, Customs will adhere to President Reagan's precepts of strengthened law enforcement and better management of government resources. Accordingly, Customs objectives are to implement the following:

- Improve the overall enforcement efforts to combat those illegal activities that fall within Customs jurisdiction by the introduction of updated techniques;
- Increase staff productivity by developing and implementing automated systems, wherever possible, in all merchandise, revenue collection, and enforcement processing; and
- Reduce administrative inefficiencies by consolidating functions and organizations, eliminating duplicative activities and unneeded paperwork and forms, and simplifying internal and external processing procedures.

Customs efforts directed toward strengthening law enforcement programs produced significant results in FY 1983. Admittedly, smuggling continues as a significant national problem. We are still confronted with an illegal industry of billions of dollars and continual smuggling along all of our borders.

But I do have good news to report. Through the combined efforts of Customs and the Coast Guard marihuana and hashish seizures have been declining, probably reflecting some diminished usage and reduced smuggling. In contrast, Customs heroin and

cocaine interceptions have set new records. Heroin seizures in FY 1983 reached 594 pounds, up 105% from the previous year. The results largely reflect intensified inspections at airports, especially cargo, and the use of improved inspectional techniques.

With regard to the cocaine situation, I am proud to commend .ustoms enforcement groups for the outstanding results produced during the past three years. In FY 1982, we seized 11,150 pounds of cocaine, an increase of more than 200% above the previous year. Now, in FY 1983, the seizures has reached 19,602 pounds, more than 400% above FY 1981 and 76% over FY 1982. In terms of disruption of organized smuggling groups, we have taken off the streets $5.3 billion of cocaine sales and prevented these criminals from pocketing the profits.

Whenever we present this statistical record of our accomplishments, the usual retort is that it probably reflects increased cocaine smuggling. Admittedly, this is a factor. But also during this period Customs cocaine seizures have in fact jumped far more rapidly by a wide margin than the amount of cocaine estimated to be coming across our borders has increased. This is a significant improvement over earlier periods and one that should put a noticeable dent in the "take" of the smuggler.

These results, of course, largely reflect Secretary Regan's goal for Customs of raising law enforcement to our highest priority. The nation faces two major and dangerous problems at its borders. The first is massive drug smuggling, which has been

with us for at least a generation and is now one of our major industies. This past year Customs successfuliy continued its enforcement efforts in the South Florida area where the major share of illegal narcotics activity is centered. Here also, huge sums of drug-related currency enter and leave the country daily to finance this deadly international traffic. At the same time, we were involved in the implementation of the Vice President directed NNBIS program along all our borders. Customs is the lead agency in several important areas along the border. Also, Customs has joined Mexican Customs in a unified anti-smuggling effort along the Southwest border.

The second problem involves critical technology illegally leaving the country. In line with President Reagan's call to block the illegal transfer of critical and high-technology equipment to Eastern-bloc countries, Customs has continued Operation EXODUS, a highly effective detection and investigative effort at major ports throughout the country. To achieve this goal, Customs has developed new approaches for surveillances; improved cargo inspections directed at uncovering these illegal equipment shipments, and improved intelligence efforts related to shipments and potential violators. These actions will improve results in FY 1984 and also produce substantial savings in this program in FY 1985.

The enforcement effort is now well on its way to achieving its objectives, and it will be strengthened as needed. While

enforcement is a top priority, today's Customs Service goals also include facilitation, and the reduction of the costs to the public and to the Government, of the processing of international trade. Facilitation of passenger and cargo processing is a high priority. We do not believe that every passenger, vehicle, piece of baggage, or cargo shipment must be searched. Since the vast majority of Customs transactions involve law abiding persons and firms, Customs officers will be directing their primary attention to "high-risk" passengers and cargo. It is clear to me that effective enforcement and efficient facilitation can go hand-in-hand, without contradiction or without diminishing our law enforcement.

Customs is now turning its attention on a high priority basis to the long-awaited and much needed reform of commercial practices; in essence, how we implement the tariff laws and how we process the vast quantity of imported merchandise. In meeting our goals in commercial processing, we are pushing forward determinedly with "centralization," "automation" and "streamlining" of all applicable operations. Centralization is a key to the new system. It is, in fact, almost upon us now, since only 20 locations process 70 percent of all formal entries. Although entries will continue to be filed at the ports as before, we intend to introduce a more selective review process. A noticeably faster turnaround is anticipated at most locations.

Furthermore, centralization has several additional advantages. Automation is most cost-effective where large volume processing is concerned. Also, appraisement will be more uniform, records duplication will be minimized and, of course, administrative overhead will be reduced.

Simplification of forms, paperwork, and procedures will reinforce automation and help to speed up the cargo clearance process. We have underway a major project to consolidate our data processing functions into a single computer environment. We feel that this will eventually permit us to dramatically improve Customs import processing and to implement new methods of collecting duties.

At the heart of the automation effort, is the Automated Commercial System (ACS), for which programming was begun in July 1983. By the first of December, Customs was running a parallel operation in New Orleans. Today, in New Orleans, we have on-line a comprehensive data base with all the functions required for processing electronically transmitted or manually prepared entries. Therefore, the system can efficiently process any and all entries prepared by all of the Brokers. All revenue collected by Customs is processed through ACS, as is the preparation of a daily broker statement. Supplementary systems for processing Fines, Penalties, and Forfeitures (FP&F) and Bonded Warehouse Inventory (BWICS) are also completed. The latter is already operational nationally and the former is being pilot tested in two locations. In summary, ACS, comprises ten

separate stand alone modules specifically directed to each of the major activities under the commercial system. Today, many of these systems are under development. When fully developed and implemented the system will provide improved management information, more efficient resource use, and increased responsiveness to the business community.

FY 1985 Plans

The program accomplishments and activities described will continue to have a high priority in FY 1984. Also, we anticipate equally good results in both the enforcement and commercial areas. In FY 1985, Customs is planning major enhancements in ACS and its telecommunication system as well as providing its enforcement units with secure radio privacy. To accomplish these objectives, we are requesting a program increase of $16,994,000 million in our FY 1985 budget.

Automated Commercial Systems

The $8.8 million requested will allow Customs to continue to expedite development and implementation of the full-scale system needed to raise productivity and continue efficient service as the workload grows. When completed, ACS will support full selectivity, determining which imports should be intensively examined and those entries with potential classification changes and increased revenue. This enhancement will pay for itself in cost savings for Customs and the broker community. We are requesting

$6.2 million for regional EDP equipment for linking field operations and the national computer. The remaining $2.6 million is needed for equipment to raise the capacity of the system, additional terminals, and automated interface capabilities.

Integrated Data Telecommunications Network

Currently, Customs has two independent telecommunications systems: one which supports the Treasury Enforcement Communications System (TECS) by providing essential information to support enforcement activities, and the other supports the Commercial and Administrative Systems associated with revenue processing. Since these networks were designed and developed separately, at different times with different missions in mind, they are largely incompatible. In addition, both use technology that is now obsolete. While the updating of both systems will incorporate the latest technology, Customs will also consolidate both networks thereby reducing redundancy costs and improving operations. The $2.5 million requested will be used for the purchase of necessary modern telecommunications equipment such as mini-computers, packet switching equipment, telecommunication circuits and earth station antennas.

Radio Voice Privacy

Customs nationwide Radio VHF system is used extensively by enforcement personnel during convoys, surveillances, and for communicating with each other during enforcement missions. The

system is an absolute necessity for Customs personnel operating in remote or dangerous areas, as it often represents their only means of calling for assistance. However, we have strong indications that unauthorized monitoring of Customs radio communications is occurring, placing officers' lives and the success of operations in jeopardy. The $5,694,000 million requested will be used to implement an initial radio voice privacy system and for the purchase of mobile and portable radios, base stations, repeaters and encoders.

Proposed Efficiencies in FY 1985

In order to meet the cost of these new initiatives, Customs is proposing several measures to provide savings in FY 1985 in its EXODUS, Air Interdiction, and passenger processing programs. These savings were derived from management efficiencies developed as part of the enforcement effort.

As part of our introduction of new approaches and implementation of more efficient operations in FY 1985, we are proposing to take advantage of DOD capabilities in improving the operations and management of the Air Program. By FY 1985, the Customs air fleet will include a growing proportion of military aircraft. While these aircraft provide improved capabilities in detection, interception and tracking, they also require more specialized logistics than the regular civilian types previously used by Customs. In order to maintain a high utilization rate and state

of readiness, Customs will require the highly technical skills already available to DOD. Undoubtedly, DOD logistics has the capability of maintaining these aircraft and providing the unique equipment needed for rapid repairs and maintenance.

Therefore, the Treasury Department is negotiating with DOD to accept the operational and maintenance responsibility for the military aircraft used in the Customs air fleet. We believe DOD support for these functions will provide the required logistics needed for the most efficient and effective use of the aircraft. As a result, we anticipate increased utilization, greater operational readiness and improved detection and interceptions. If these results can be achieved, it will insure more effective interdiction along the entire southern border as well as providing efficiencies of $11,000,000. At this time, we cannot provide specific information on the increased DOD logistics support since negotiations are continuing, but your Subcommittee will be kept fully informed.

Additional efficiencies and savings will accrue from the EXODUS program, our proposed statutory amendment of the Airways and Airport Development Act, and selective management actions to upgrade administrative support. As indicated earlier, we have implemented several new approaches to the difficult enforcement of critical technology illegally exported to the Soviet Union and its allies. We anticipate that these innovations will be fully operational in FY 1985 and should permit us to reduce EXODUS

costs by $5.0 million. Another $7.0 million can be saved by returning the full costs of airport passenger processing on Sundays and Holidays to those receiving the benefits; namely, the domestic and foreign carriers. Since 1977, when the statute was amended by the Congress, inspectors have cost the Government about $40 million, and are now running at more than $7.0 million per year. Finally, we will be implementing across-the-board management initiatives related to personnel and administrative staffing, procurement, printing, and publications and audio visuals totalling $5.4 million and 145 average positions.

We have gone into considerable detail on the projected improvements in Customs commercial operations and our FY 1985 proposals because of their enforcement importance, your interest, and the long-term needs of the international business community. This budget continues our efforts to reduce the overall cost of government business. Customs management plans are to replace inefficient operations by sound management practices and systems. Excessive overhead, as well as duplicative and marginal operations, have been specifically targeted for elimination, partially to meet the reduced resource levels reflected in this budget. We are continuing to study other proposals to achieve resource savings and improve operational performance; and other means to increase entry processing efficiency.

REPORT ON CUSTOMS ENFORCEMENT AND OPERATIONAL PROGRAMS

INSPECTION AND CONTROL

Customs Inspection and Control program processes persons and cargo, and clears carriers, for both revenue and enforcement purposes. Customs efforts to improve and expedite processing of persons and goods will continue in FY 1985. Our objective, considering resource constraints, is to achieve a balance: economical processing while still maintaining full service.

To meet the challenge of a growing workload, we are, in the normal course of our inspections, automating and implementing increased selectivity in the handling of imported merchandise and in passenger processing. In cargo processing, every step, from manifesting to duty collection, will be subjected to improved time-saving and less resource-intensive procedures. With regard to enforcement, selectivity continues as the significant means of increasing efficiency. Our special teams of inspectors, equipped with detector dogs and the best possible intelligence we can supply, are concentrating on high risk cargo. These teams have already established significant cost-benefit ratios with noteworthy narcotics seizures from cargo and baggage. We intend to expand their use, expertise, and improve the equipment available to them.

Passenger Processing

As in previous years, Customs processed about 290 million persons entering the United States, of which almost 30 million were air passengers. Although air passengers constitute only

about 10 percent of the total number of persons entering the country, they require a higher than proportionate share of Customs resources because of the limited facilities and the heavy crowding during processing. The problem is particularly acute because flight arrivals at airports are concentrated within certain time periods and the expansion of facilities to meet the growing workload has lagged.

To meet these greater demands and insure that its workload is efficiently facilitated, while full enforcement is maintained, Customs has developed new processing approaches. We are tailoring our processing systems to the physical configuration and threat level of each airport. Whatever form of processing is most effective in a particular airport, that is the system we will install. We anticipate implementation of a Red/Green processing system at many of our major airports. Our basic operating assumption is that the vast majority of passengers are honest and will select the appropriate inspection needed.

The enforcement aspects of passenger processing are being reinforced by training inspectors in new observational techniques, development of walk-through narcotic detection devices, passport "readers," and other similar innovations. Moreover, these new techniques will be very useful in carrying out our special responsibility of handling security and visitor processing for the Summer Olympic Games this year at Los Angeles.

Olympics

Customs is prepared to facilitate and protect the many foreign visitors expected to attend and participate in the Summer Olympic Games in Los Angeles. It assuredly will be a great event and Customs intends to do its part in seeing to it that no untoward activities disrupt the Games. Customs will be implementing an integrated operation for passenger and cargo processing, including security and law enforcement, inspectors, patrol officers, and special agents. All foreign visitors and participants, as well as their equipment, will be processed by Customs through various ports of entry. It is projected that the majority of visitors and equipment will arrive at Los Angeles International Airport, although other major ports of entry will surely be impacted.

Customs will insure that the additional workload does not result in facilitation or security problems at Los Angeles, or any other port. The security threat to the arriving visitors, participants and inspection personnel is heightened because of international terrorism. It is estimated that Los Angeles will experience an additional 15-20 percent workload during the normally heavy summer tourist season. In addition, we expect J.F.K., San Francisco, Chicago, Miami, Honolulu and Houston airports to experience increased passenger traffic.

Cargo Processing

Selectivity procedures are most adaptable to cargo processing. In order to speed the flow of merchandise, we are

expanding existing cargo selectivity and introducing automation to cargo processing systems. Several systems which have been specifically designed to facilitate the flow of cargo while maintaining an effective enforcement are discussed below.

In cargo processing, the most significant innovation has been the expanded and enhanced Automated Cargo Clearance and Enforcement Processing Technique (ACCEPT) system. Rigourous system testing showed that regulatory and enforcement efforts could be improved and cargo expedited by intensively examining only selected shipments identified by automated intelligence as high risk. Customs ACCEPT is now in operation at major ports, and the entire processing and inspection is guided by a central-site computer. At the same time, a manual version of the system, previously developed for use at small to medium-sized ports, will be installed at additional locations. The enforcement aspects of ACCEPT were also strengthened by integrating it with the Customs Automated Cargo Transaction Intelligence System (CACTIS), which provides background data on each shipment.

In the future, ACCEPT is to be incorporated into the Automated Commercial System, which will control processing of cargo from its arrival at the docks or airports until release to the importer. Until that system is fully operational, expansion of ACCEPT as a stand alone system will continue at major ports. In addition, a number of other initiatives are being pursued until the entire cargo system is fully streamlined.

Contraband Enforcement Teams

Contraband Enforcement Teams (CET) are reinforcing the traditional inspectional operations. These Teams gather and disseminate intelligence, perform input document review, and analyze and search suspect cargo. Whenever violations are detected, merchandise, drugs, contraband, and items in violation of currency reporting and export laws are seized. CET capabilities will be bolstered by combining their search efforts for drugs in cargo with those of the Canine Teams. In FY 1983, the CET teams, as part of Operation Eagles, worked closely with Mexican Customs along the Southwest border to control the growing smuggling problem.

TARIFF AND TRADE PROGRAM

Tariff and Trade is responsible for appraisement, classification, duty assessment and collection on entries of imported merchandise, as mandated in the Tariff Act of 1930. Related and equally important functions include verification of import statistics; administering national trade policy by monitoring quotas, steel import restrictions, various trade agreements; as well as enforcing merchandise admissibility for over 40 other Federal agencies and 400 related laws.

We are improving the complete range of tariff and trade operations and are continuing an indepth review of the current merchandise processing system. Our goal is to reduce the burden on the importer, especially his costs of doing business with Customs, while insuring that Customs maintains required services

even with increased merchandise imports. I am pleased to report that development projects begun last year will be operational early in FY 1984. A brief description of these innovations is included in the following sections to provide you with some insight into the challenge faced by Customs.

Automation and Centralized Appraisement

Centralizing merchandise appraisement in fewer locations is an innovation which will increase productivity while maintaining service with reduced staff. Furthermore, centralization will enhance planned automation, which can be cost-effective only when large volumes must be processed, and assist in implementing by-pass and post-audit systems. These approaches are the core innovations for this system.

Whatever the final configuration of duty assessment locations, centralization does not mean an end to Customs presence, nor any curtailment of our service to the public. Ports which are centralized will not be closed; inspectors and other Customs support staff will remain in every port, only import specialists are relocated. Furthermore, entry papers are still to be filed at the port of arrival; but under centralization, these papers are simply processed at another location. The presence, or absence of an import specialist at any particular port does not affect the initial Customs review of these documents. Similarly, centralization will not delay merchandise being released to importers or entered into or

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withdrawn from either Foreign Trade Zones or Customs bonded warehouses. I can assure you that these and all other Customs activities at the port will proceed without disruption to the importers, brokers, or other members of the trade community.

Additional Improvements

A supplementary development to centralized appraisement is the preparation of a fully integrated and automated data base to meet Customs and trade community requirements for entry processing, entry examination, cargo release, duty collection, and liquidation. Many of our current manual and automation entry processing functions have evolved as independent activities within the Customs Service and are not integrated into a single system. The planned automated system interfaces the broker community, and Customs processing procedures.

Automated interface with the broker computers is a key feature of the system. Currently, about 60 percent of the entry summaries presented to Customs are prepared on broker computers, and that number is expected to grow to 80 percent by 1986. Customs views this as a unique opportunity for both the trade and Customs to work together. Electronic interchange of entry data has been successfully tested. By FY 1985, several Customs ports will be processing by the Automated Broker Interface (ABI). Continued expansion of ABI will facilitate the implementation of Customs streamlined processing and support the development of a "paperless entry."

Selectivity criteria, which also are a key feature for both cargo examination and import specialist review, will be maintained in a unified data base. The system will be fully operational in FY 1984 and will be capable of identifying the types of review required by the import specialist. As is common in this type of processing, random sampling will maintain system integrity.

Finally, in these times of limited resources, each agency involved with collecting revenue must implement the most efficient means for enhancing debt collections, cash management, and cash flow. This goal is precisely the goal Customs is striving to achieve. Customs is exploring and has implemented systems for speeding up debt collections and cash flow. In fact, new cash flow procedures will assure that duty payments will be in the bank within a day after collection. Several new proposals for improving debt collection are under consideration. In addition, commercial fraud teams are operating in all Customs Districts to insure that evasion of duties is held to a minimum.

These innovations, and perhaps others, will pay increasing benefits in the future and will be the means for eliminating unnecessary paperwork, simplifying processing methods, and, best of all, making the importation of goods and payments of duties a more businesslike operation.

TACTICAL INTERDICTION

Customs Tactical Interdiction Program was organized to detect and apprehend smugglers operating outside the regular port limits or entry points, generally those areas where a significant percentage of today's drug smuggling occurs. Customs maintains a highly mobile land, sea, and air tactical enforcement force tailored to challenging these smuggling activities. Customs tactical units are employing effective operational approaches, and available equipment and technology to control and to reduce smuggler options for choosing the method, time, and location for crossing our borders.

Our principal tactical interdiction forces are stationed at land, sea, and air ports of entry, and supported by airplanes, helicopters, and boats. Primary emphasis, in the past several years, has been the Southeast Border, where massive amounts of drugs enter the country, and associated large flows of currency enter and leave daily to finance this international drug trafficking. Customs in cooperation with the Coast Guard and the Drug Enforcement Administration, has implemented a series of joint interdiction operations at these critical smuggling border areas.

Current Tactical Interdiction Approaches

Customs Tactical Interdiction Program conducts traditional enforcement operations such as surveillances, patrols, intelligence-gathering, monitoring sensors, examinations of passengers and crew members, special integrated enforcement efforts, and

vessel and aircraft searches. To combat smuggling by vessels, the Customs Marine Interdiction Program operates 110 boats, ranging in size from 14 to 57 feet and stationed at 49 high-risk locations. A new marine module, patterned after the successful Patrol Air Program concept and utilizing a command and control center was successfully tested and has become the operational approach for the program. A major part of this enhanced marine module will be a Servicewide plan for upgrading the logistics and utilization of the fleet. Replacements in the fleet will occur in stages as resources are available. Exchange/sale provisions and the traditional seizure/forfeiture routes will be used, whenever possible.

A prime concern of the U. S. Customs Service and the Treasury Department has been the effectiveness of our Air Interdiction Program as a deterrent against the smuggling of narcotics and contraband by private aircraft, a threat that has dramatically increased over the past several years. In FY 1983, the value of narcotics and dangerous drugs seized in the Customs Air Program amounted to $745 million--an increase of 88 percent over FY 1981. Seizures during FY 1983 are valued at over $1.2 billion--an increase of over 60 percent compared to the previous year.

In an effort to most effectively respond to this serious problem, Customs air operations has adopted a strategy of concentrating air personnel and equipment in high-threat areas and using them in conformance with the new detection, interception,

and tracking methods. Furthermore, because of your continued interest in Customs achieving the most effective air interdiction program, I have had a consultant review our current plans and approaches, and provide us with recommendations for developing the most up-to-date air program.

Customs has invested much of its air enforcement resources to combat the smuggling of narcotics and dangerous drugs into Florida. These efforts were intensified in support of Operation Florida. Most gratifyingly, the present enforcement posture in Florida has apparently slowed the flow of contraband. However, as expected, continued intensive operations in Florida and the assistance of Department of Defense equipment, now available because of the relaxed POSSE COMITATUS restrictions, are causing smugglers to shift operations to the Gulf and southwest Borders.

In order to meet this threat, we have requested the loan of aircraft from DOD for a complete air module for operational use at other critical air smuggling locations. Recently, because of the easing of POSSE COMITATUS restrictions and with the assistance of Congressional Committees, the Defense Department has agreed to the loan of a number of aircraft and other air interdiction equipment. This option, should it materialize, will provide us with an alternative national air interdiction capability. Currently the first of 8 P-3A's from DOD is being renovated for Customs specific requirements. The projected completion is June 1984. When operational, this aircraft will significantly boost Customs detection capabilities along the border.

Also, in FY 1985, Customs is planning, as I indicated earlier, to request DOD assistance in accomplishing the operations and maintenance support required for high-level utilization and efficient operations. Having the expert "know-how" regarding these military aircraft, DOD can more effectively maintain the planes and materially assist Customs in upgrading its interdiction efforts. We believe that this assistance will significantly increase the overall protection of the southern border against air smuggling and even increase the number of seizures.

INVESTIGATIONS

The Customs Service investigates violations of Customs and related laws. Included under this broad mandate are currency, neutrality, fraud, organized crime, white collar crime smuggling, cargo theft, and wildlife violations. In accomplishing these investigative tasks, during the past year, several major enforcement objectives were emphasized.

Presidential Drug Task Force Initiative

Responding to the growing crime problem, a Presidential Drug Task Force intiative was established and is now implemented throughout the country. Customs participates with other Federal law enforcement agencies in these task forces. As of now, Customs primarily conducts financial investigations. The financial investigations focus on smuggling groups responsible for the laundering of large sums of money. We believe this

program is a major step in assuring the success of the President's goal of disrupting organized crime throughout the country.

Our investigative attack on criminal organizations under the provisions of the Bank Secrecy Act and through their financial transactions has paid excellent dividends in terms of its impact on the largest smuggling groups operating in this country. Using multi-agency investigative and prosecutorial teams, operating under the leadership of the local U.S. Attorney, it is currently active in Miami, Los Angeles, Houston and New York - cities with large-scale currency movements and in the forefront of top-level drug trafficking and money laundering.

Our Treasury Financial Law Enforcement Center (TFLEC) is supporting the nationwide Operation El Dorado, and Operation Greenback our South Florida version which also includes IRS, DEA, and the Office of the U.S. Attorney. The Center is analyzing financial characteristics of criminal markets and assisting in developing useable strategies for exploiting criminal financial business practices. Needless to say, the Center also is the source of intelligence, both domestic and foreign, developed and adapted for the investigative field units. On a national basis, Operation El Dorado resulted in the indictment of 197 individuals, and the seizure of over $30 million in currency.

Operation Exodus

Operation Exodus, established during FY 1982, is attemmpting to stop the illegal export of equipment, computer parts, classified defense items, and lasers. In addition, and equally serious, is the illegal of transfer of technical data on research, development, and manufacturing. Our job is not only to detect these shipments, but also to punish the individual violators. Ultimately, if we are to be successful, we also must discourage the activities of the manufacturers, overseas intermediaries, and foreign operatives. I am pleased to report that we are receiving the wholehearted support of American industry in this effort.

In FY 1985, we can reduce this program by $5 million because of the significant improvements in techniques available and the approaches implemented. Customs will respond to the sophisticated tactics of the violators by improved training and intelligence which will permit operations to be directed to specific products, manufacturers, and geographic locations. New sophisticated equipment will become the means for conducting long-range investigations, serving as the basis for strong criminal cases and raising the prosecution and conviction rate against top-level violators.

Fraud Emphasis

Over the past year, Customs has emphasized its civil and criminal fraud efforts against unauthorized steel, textile, electronics and other imports. After the highly publicized

successful Volkswagen and Mitsui cases, which resulted in $37,500,000 collected for the Government, the Fraud Program has continued to produce additional revenues that would have been otherwise lost to the Government. Looking to FY 1985, we hope to build on past successes, targeting major civil and criminal violations -- with an end-product of high-level arrests and a return of multi-million dollar revenues lost to the Government.

CONCLUSION

In closing, we wish to reiterate that our basic mission is the collection of revenue and enforcement of Customs and related laws. Our mission is important and operates in a dynamic environment, important elements of which include the traveling public, the trade community, American business and the general public. Customs, in fulfilling its responsibilities, must increasingly employ sophisticated operational and enforcement techniques and a wide variety of skills and disciplines.

Consistent with Administration policy directed at organized crime and strengthening the economy, the Customs role in FY 1983 involved new law enforcement initiatives and improvements in its ongoing programs. Our goal for FY 1984, is to refine law enforcement operations and improve capabilities so that whenever new opportunities arise, we can take effective action. In essence, we are supporting successful programs and cutting back on unproductive efforts.

In FY 1984, Customs will reform its commercial merchandise processing as well as expand its longterm administrative improvements. Where ever possible, selective approaches supported by automation and reduced procedural requirements will be implemented. In each case, we are attempting to speed up the processing times. As described earlier, we will be working closely with the importing community to insure that the planned operating system meets their needs as well as our own. Similarly, we will be introducing more efficient administrative support throughout Customs, particularly for operational programs. There is an ongoing review of all administrative functions in order to eliminate excessive overhead and duplicative activities.

The strategies represented are appropriate for Customs in today's environment and for meeting its future needs. Increased drug smuggling and major trafficking must be permanently disrupted. Our efforts against commercial fraud will not only protect American industry but also the revenues. With regard to the national effort to protect our critical technology lead, illegal exports to Soviet bloc countries must be stopped so they are no longer a threat. In addition, we believe the system already implemented and planned will improve passenger and cargo processing.

Today, I have outlined a blueprint of future directions and of improvements recently implemented. In FY 1985, we should begin to see the results of these efforts as many of the

innovations become fully operational. As always, Customs will be working with the Congress on ways for Customs to do a better job. At times, Customs will be presenting new approaches and proposals for consolidating functions or new methods for achieving increased economies and improved productivity. These are our key objectives in determining which new approaches will be adopted for all of our processing programs.

Although Customs is reducing its overall workforce, I still intend to make real progress in achieving President Reagan's priorities of a strong enforcement posture, improved cost-effectiveness, and better service. We intend to move forward on all fronts while providing the American public with a fully modern Customs Service.

This concludes my introductory statement. We are available to discuss the details of the request and answer your questions and those of the Subcommittee Members.

Senator DANFORTH. It is always unusual when agencies of the Government ask for less. I guess the question is whether, in this case, less is better. You estimate that fewer import specialists and inspectors will be needed in the future because of increased automation of import processing centralization, and so on. Is that just an assertion on your part, or is that based on some definite information, or some study?

Mr. VON RAAB. If you are asking if there is a specific document that, through analysis, has come up specifically with the productivity statements and the numbers here, we don't have such a document. However, it is based upon our experience over the past 2 years that reductions like this are possible without a reduction in our enforcement capability.

Senator DANFORTH. Isn't there a kind of an irreducible amount that has to be done manually or by sight by customs inspectors?

Mr. VON RAAB. Yes. I am sure that at some point you would reach the irreducible amount, but I think that we are certainly far from that.

Senator DANFORTH. You think you are far from that?

Mr. VON RAAB. Yes.

Senator DANFORTH. I don't know—you are there on the scene, and I am not. I am just told, for example, that at St. Louis Lambert Airport, there are five customs inspector slots, and three are vacant now, and the airport officials are concerned that the result of this is extensive delays in processing passengers and cargo.

Mr. VON RAAB. Have extensive delays occurred or are you concerned that they may take place?

Senator DANFORTH. What we are told by the airport director that is the case, and I don't make too much out of it, but I think that the Customs Service is very important. It is, of course, a revenue producer for our country. It is also absolutely essential in making sure that drugs and contraband material not get into the country. It is the enforcer of our trade laws, and I am wondering if the quest for efficiency and for reduced budgets and reduced numbers of personnel isn't maybe going to backfire.

Mr. VON RAAB. It is my responsibility, as a manager, to ensure that they don't backfire.

Senator DANFORTH. Do you feel great pressure from the administration to cut back on personnel and to reduce the budget? Is OMB riding you pretty hard on this?

Mr. VON RAAB. I wouldn't say there was pressure. I think the Customs Service feels that it should bear its own responsibility for reducing the costs of Government, and this is our contribution to that effort. But in terms of direct pressure or missives from OMB or someplace like that, no, there is not anything like that.

Senator DANFORTH. Is this effort to reduce the number of personnel just through attrition, or through reductions?

Mr. VON RAAB. The 1985 reductions would be accomplished through a RIF.

Senator DANFORTH. Through a RIF. Is this having an effect, or have you seen any effect on the part of people who now work for the Customs Service?

Mr. VON RAAB. You mean in terms of——

Senator DANFORTH. Is there a morale problem or——

Mr. VON RAAB. It is always hard for me to calculate this from Washington—although I try to get out in the field as much as I can—but I believe that the 1985 budget has not had any noticeable impact on the morale or the attitude of the Customs Service.

Senator DANFORTH. OK. I have here a letter from GAO which I am going to put in the record—of March 8. One of the statements is that in September 1983 customs regions had 1,000 import specialists, about 131 fewer than in September 1981. Most of the decrease in the number of import specialists can be attributed to Customs not filling vacant positions, which increased—the vacant positions—from 4 to 107. Custom's budget officials said that vacant positions have not been filled because of anticipated reductions of 2,000 customs positions, which included 291 import specialists.

Mr. VON RAAB. As a statement, that would not be accurate. The reason that we have not been filling vacancies over the past few months is related to and a function of our 1984 budget, and it is unrelated to the 1985 budget. In the continuing resolution, the Customs Service took a reduction of about 400 funded positions, and in order to effect that reduction the Customs Service has put a freeze on all hiring except for in one or two areas. So, the failure to fill vacancies is a result of the 1984 budget crunch.

Senator DANFORTH. But the numbers are right?

Mr. VON RAAB. I am sure the numbers are correct. I haven't looked at them, but they don't sound——

Senator DANFORTH. It just seems to me to be quite a remarkable reduction. Let me ask you this. Of the number of people who are

still in the Customs Service, has there been a shift in the kind of emphasis of their work?

Some people and some amount of work is necessary in order to just process entries into the country. Some is necessary for drug enforcement, and so on. Has there been a shift in emphasis or has everything been treated on about the same level or same emphasis as was true, say, 3 or 4 or 5 years ago?

Mr. VON RAAB. It is hard for me to judge what the case was 3 or 5 years ago, but I have attempted to shift the emphasis in the Customs Service as far as import specialists are concerned. The effort has been to remove them from what I call the clerical or routine tasks of processing entries, which I believe are more properly done either by machines—as in the case of our automated commercial system—or by lower graded employees. We can then take the higher graded and more qualified employees and put them on our enforcement problems, which involve large importation violations of some of our tariff or trade laws. The same approach has been used in our inspectional program. Our inspectors have been told to take the pressure off of the law-abiding citizen, who may be costing the Government $3 or $4, and put the pressure on serious criminals trying to cross our borders with major amounts of narcotics or perhaps with a commercial importation involving a serious loss of revenue. So, yes, we have tried to get all customs employees in the field to take their emphasis off the petty or routine aspects of their work, which should probably be relegated to computers and place their emphasis on more serious violations of law or tariff or trade procedures. So, that has been a change. I believe it has been a marked change in the Customs Service.

Senator DANFORTH. Do you think that the Customs Service is doing as good a job or a better job or not so good a job as it was a few—say 3 years ago, 5 years ago—in collecting duties, enforcing our trade laws, policing drugs, and so on?

Mr. VON RAAB. That is difficult for me to answer because it is the period of my responsibility for the Customs Service. But if you will discount the subjectivity involved, I think the Customs Service is doing a superb job, from narcotics interdiction and export technology interdiction to serious commercial fraud activities. And at the same time, interestingly enough, we believe—and as indicated by at least the letters and postcards that I have received, and the conversations that I have had with members of the international trading community—that there has been a noticeable improvement in so-called facilitation of trade, whether it is a passenger moving through an airport or merchandise moving through a commercial cargo terminal. So, I would give the Customs Service very high marks in all of the areas in which it is operating.

Senator DANFORTH. Senator Heinz?

Senator HEINZ. Mr. Chairman, first I have an opening statement that I would like included in the record at the appropriate point. My general view is that Customs Service representation at major ports has been characterized by a decreasing pool of customs personnel, particularly import specialists, and an increasing volume of imports. And I am afraid that the result has been a serious compromise of U.S. law at a time when there is increasing pressure on foreign suppliers to gain access to the U.S. market. There have

been staff reductions which the committee is well aware of, and it is my view that that has resulted in large revenue losses to our Government at a time when the Senate Finance Committee is trying to find revenue raisers. Merchandise imports increased by 22 percent last year. Total customs collections from tariff and trade activities declined—declined—by $195 million. So, I have some concern about whether or not the Customs Service is indeed doing the superb job that was testified to a moment ago, based on what you might call a macroeconomic analysis. In support of that contention, I would like to submit for the hearing record, Mr. Chairman, a letter to myself and another letter to you—both from Congressman Dingell—accompanying his testimony to the Ways and Means Committee on the problems of import fraud detection, and I would ask unanimous consent that they be made part of our record. I think they speak rather eloquently to the effects on commercial fraud detection and preservation from the general austerity cutbacks that Commissioner von Raab has testified to.

[The GAO letter and Congressman Dingell's letter and statement follow:]

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

GENERAL GOVERNMENT
DIVISION

March 8, 1984

B-214537

The Honorable John C. Danforth
Chairman, Subcommittee on
International Trade
Committee on Finance
United States Senate

Dear Mr. Chairman:

Subject: U.S. Customs Service's Import Classification Operations: Staffing and Workload Changes (GAO/GGD-84-59)

We are studying, at your request, certain aspects of the U.S. Customs Service's process used to ensure the accurate classification of imported products. As arranged with your office, we are initially providing you information on the number of entries of imported goods and the staffing used to process the entry documentation for fiscal years 1979 through 1983. Our evaluation of the results of Customs' entry review process will be the subject of a separate report to be issued to you prior to the fiscal year 1986 subcommittee hearings. The full scope of our work is explained in enclosure I.

Over the last few years, there has been an increase in the number of formal entries--import transactions exceeding $250 in value--of imported merchandise and a decline in the backlog of entries waiting Customs' review. This has occurred despite a decrease in the number of Customs' personnel used to process entries. Whether the quality of Customs' entry review process has kept pace with the increased workload is, as noted above, the subject of our ongoing review.

IMPORT CLASSIFICATION OPERATIONS

Customs import specialists determine whether importers or their brokers have properly classified and valued imported products, correctly calculated duties owed, and provided all data and documents required to admit merchandise into the

country. Classification of imported goods determines the tariff rate for duty assessment purposes and is the basis for enforcing quota and other merchandise restrictions. The classification process also provides the means to accumulate statistics on imported products, such as dollar value, quantity, and country of origin.

Verifying the proper product classification from the Tariff Schedules of the United States for imported products is an essential but difficult step for Customs. Each imported product must be placed in one of the categories listed in the Tariff Schedules. The schedules prescribe the rates of duty for about 6,000 products by specific name; type; kind; physical characteristics, such as material composition, size, and weight; use; or combination of the above.

NUMBER OF ENTRIES IS INCREASING

The formal entry workload increased about 21 percent from fiscal year 1979 to fiscal year 1983, from 4.4 million entries to 5.3 million respectively. The largest increase occurred during fiscal year 1983 when entries increased from about 4.7 million to approximately 5.3 million. Customs officials estimate that the number of entries will increase to about 6.2 million by fiscal year 1986. The backlog of unprocessed entries waiting import specialists' review decreased about 40 percent, from about 96,000 entries at the end of fiscal year 1979 to approximately 58,000 at the end of fiscal year 1983.

An official in Customs' Duty Assessment Division, Office of Commercial Operations attributed the decline in the backlog of entries to several reasons. Section 209 of the Customs Procedural Reform and Simplification Act of 1978 added a new section 504 to the Tariff Act of 1930 which established a specific time period for Customs to liquidate an entry of merchandise, i.e., complete a final computation of the duties due. If liquidation has not occurred within 1 year from the date of entry or other specified date, the merchandise is deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer. During November 1978, Customs directed its Regional Commissioners to place a priority on reducing the backlog of entries.

Customs also implemented a manual selective entry processing system in June 1981 to lessen the import specialists' workload. This system provides a means of grouping entries into either high or low risk categories. The high-risk entries include those with a potential for changes to tariff classifications, valuations, or duty estimates. Instead of import specialists looking at all entries, they review the high-risk entries and clerical personnel process the low-risk entries.

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STAFFING OF IMPORT CLASSIFICATION OPERATIONS HAS DECREASED

In September 1983, Customs' regions had 1,000 import specialists--about 131 fewer than in September 1981. Most of the decrease in the number of import specialists can be attributed to Customs not filling vacant positions, which increased from 4 to 107. Customs budget officials said the vacant positions have not been filled because of anticipated reductions of 2,000 Customs positions, which included 291 import specialists.

In addition to a decrease in import specialists, the number of customs aides in the regions who assist the import specialists in entry processing has also decreased. In September 1983, there were 738 customs aides--about 62 less than in September 1981. There was little change in the number of other entry processing positions, such as the clerical staff, during the same period.

Prior to 1981, Customs maintained aggregate staffing data only and could not provide us information on the number of import specialists, customs aides, and other positions in its regions. Therefore, we could not determine staffing changes in its import classification operations during 1979 and 1980.

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At your request, we did not obtain official agency comments. We hope the above information responds to your concerns. As arranged with your office, unrestricted distribution of this report will be made 5 days after the date of the report or at the time of public release of the report's contents by your office.

Sincerely yours,

W. J. Anderson

William J. Anderson
Director

Enclosure

ENCLOSURE ENCLOSURE

OBJECTIVE, SCOPE, AND METHODOLOGY

The objectives of our review were to provide information on the (1) number of entries of imported goods, including the backlog of entries; and (2) the Customs' staffing used to process the entries from fiscal years 1979 through 1983. Staffing included import specialists, customs aides, and other support personnel involved in the classification of imported goods.

To accomplish our objectives, we interviewed Customs' headquarters officials from the Budget, Duty Assessment, and Personnel Divisions. We reviewed the workload and staffing information provided by Customs officials. Specific information on the number of import specialists was obtained from budget records. The number of customs aides and other types of employees involved in entry processing in the regions was obtained from payroll records for the last pay period in fiscal year 1981 through 1983. We could not determine the staffing changes in the regions made in 1979 and 1980 for import specialists and other personnel involved in import classifications because Customs maintained only aggregate staffing data. We did not independently verify any of the workload and staffing data. We discussed the report with Customs officials who agreed with the material presented.

Our review was made in accordance with generally accepted government auditing standards.

NINETY-EIGHTH CONGRESS

JOHN D. DINGELL, MICH., CHAIRMAN

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U.S. House of Representatives
Subcommittee on Oversight and Investigations
of the
Committee on Energy and Commerce
Washington, D.C. 20515

March 9, 1984

The Honorable John C. Danforth
Chairman
Subcommittee on International Trade
Committee on Finance
Room 219 Dirksen Senate Office Building
Washington, D.C. 20510

Dear John:

I understand that the Subcommittee on International Trade will hold authorization hearings next week on the budget request of the U.S. Customs Service. I would like to submit the attached testimony for inclusion in the record and for distribution to the other Members of the Subcommittee. My testimony calls for strengthening the Customs Service, especially in the area of commercial fraud detection.

The proposed testimony is based on an investigation by the Subcommittee on Oversight and Investigations over the last year into unfair foreign trade practices. During this investigation, the Subcommittee has learned a good deal about the operations of the Customs Service, and this experience is reflected in my testimony.

I am enclosing a copy of our printed hearing record. You already have a copy of the Subcommittee's recent report on the theft of American intellectual property and the health, safety and economic consequences of this growing problem. Also enclosed are additional copies of the report, which I would ask be distributed to the Members of the Subcommittee.

Thank you for your cooperation in this matter. If you or your staff have any questions regarding my testimony or the Subcommittee's inquiry, please call Stephen Sims or David Nelson of the Subcommittee staff at 225-5365.

Sincerely,

John D. Dingell
Chairman
Subcommittee on
Oversight and Investigations

Enclosures

NINETY-EIGHTH CONGRESS

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U.S. House of Representatives
Subcommittee on Oversight and Investigations
of the
Committee on Energy and Commerce
Washington, D.C. 20515

STATEMENT OF THE
HONORABLE JOHN D. DINGELL
CHAIRMAN
COMMITTEE ON ENERGY AND COMMERCE
U.S. HOUSE OF REPRESENTATIVES
before the
SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE
U.S. SENATE
March 12, 1984

As you may be aware, the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce has been conducting a year-long investigation into the impact of unfair and illegal foreign trade practices on interstate commerce. While our investigation is not complete, we have thus far held seven days of public hearings which have produced over fifteen hundred pages of sworn testimony.

During the course of this investigation, the Subcommittee staff has interviewed hundreds of individuals, including many Customs line personnel. Import specialists, inspectors and special agents from the ports of Los Angeles/Long Beach, San Francisco/Oakland, Seattle/Blaine, Chicago, Detroit and Baltimore have testified before the Subcommittee to date. Additional interviews have been conducted in the ports of Newark, New York, Miami, Pittsburgh and even overseas.

In October, a staff delegation traveled to Taiwan, Macau and Hong Kong to gather facts relevant to the Subcommittee's inquiry into the extent of commercial counterfeiting of U.S. trademarks, copyrights, patents and tradedress. During that visit, interviews were conducted with U.S. Customs personnel assigned to the consulate in Hong Kong.

The Subcommittee staff has worked closely and cordially with Customs officials assigned to the Commercial Fraud Center at Customs headquarters, commonly referred to as "Operation Tripwire."

In addition to information gathered from Customs officials in Washington and the ports mentioned above, we have had extensive discussions and some public testimony from government officials from the Departments of Justice, Treasury, Commerce and State, the Federal

Bureau of Investigation, several Assistant U.S. Attorneys, the Office of the U.S. Trade Representative and the International Trade Commission.

The private sector, including representatives of U.S. and foreign concerns in the Far East, has been consulted heavily during this investigation. These individuals have a detailed, working knowledge of the capabilities of Customs in various ports and overseas.

The staff has also held discussions with officials of the National Treasury Employees Union (NTEU), the bargaining agent for most employees of the U.S. Customs Service. These interviews have involved NTEU officials here in Washington and at several ports around the country.

Virtually all these sources agree on one essential fact: current staffing levels at the Customs Service are in no way adequate to control commercial fraud. This situation exists despite the fact that the Customs Service employs a number of individuals who can only be described as among the most dedicated and informed civil servants in the U.S. Government.

Despite this serious problem, which costs the American economy many billions of dollars in revenues and hundreds of thousands of jobs, the President's budget again proposes a large cut in the funding of the Customs Service.

Instead of a cut, the authorized level of funding for the U.S. Customs Service should be increased by at least $29 million with that increase dedicated to combating commercial fraud. This increase would be on top of the FY 84 base rather than the proposed cuts. Before proceeding with an itemized list of how this additional money could be spent, let me share some examples of the dimension of the commercial counterfeiting problem.

A recent report by the International Trade Commission (ITC) estimates that in 1982, U.S. companies suffered nearly $5.5 billion in lost sales because of counterfeit foreign products. The ITC estimated that this cost about 131,000 jobs in the United States. The survey covered only trademark infringements in five industry groups. It did not include copyright or patent violations, nor did it cover tradedress, passing off and gray market sales. Thus, as noted by the ITC, "the questionnaire data must be viewed as representing a minimum for each industry."

In a January 26 speech before the International Anti-Counterfeiting Coalition, William Von Raab, Commissioner of Customs, stated that total lost sales to U.S. firms from all forms of counterfeiting may total $20 billion.

Testimony before the Oversight and Investigations Subcommittee last summer revealed that the problem of foreign counterfeiting extends beyond lost capital and jobs. The health and safety of the American public, who rely on the quality control implicit in American brand name products, is threatened. The counterfeiting of automotive parts has reached epidemic levels. Included are many substandard parts which can turn cars into death traps.

Both pharmaceutical and over-the-counter drugs are counterfeited. These preparations are dangerous in two ways. Lack of quality control results in impure drugs. Even where such medicines are not per se dangerous, the consumer is often deceived into believing he is being properly treated and thus may permit the illness to become far more serious.

Aircraft parts, heart pumps, missile components and even transistors in the space shuttle have been found to be counterfeit, although it is not clear whether or not these defective copies came from offshore sources.

Even products such as counterfeit computers almost uniformly do not meet FCC standards and thus pose fire and electrical shock hazards. They also interfere with radio and other broadcast signals. This can be particularly hazardous if the counterfeits are used on airplanes.

While there is no evidence of a problem in the United States as yet, counterfeit agricultural chemicals are being sold abroad. One batch of a bogus Chevron product virtually destroyed Kenya's coffee crop in 1979. Many herbicides, pesticides and fungicides are hazardous even when produced under strict quality control conditions. In the hands of counterfeiters, there is an obvious danger of toxic chemical contamination of imported food or other products.

These selected examples highlight the problem of commercial counterfeiting from offshore pirates. A report which discusses in far greater detail the violations of American intellectual property rights

by foreign manufacturers has been released by the Oversight Subcommittee. The report, which was approved without objection by the Subcommittee, specifically calls for strengthening the ability of the Customs Service to combat commercial fraud.

Investigations by the staff of the Oversight Subcommittee have revealed serious problems in the Customs Service directly related to the lack of adequate resources. The role of the import specialist is being systematically downgraded. These commodity specialists acquire specific invaluable knowledge of the relationships between foreign suppliers and U.S. importers. By carefully reviewing entry documents, the import specialists initiate a number of fraud investigations. Broker error on entry documents regularly approaches thirty percent and the majority of these "mistakes" favor the importer.

By reviewing these documents and correcting the errors, import specialists also collect a good deal of revenue owed the United States. The magnitude of the problems caused by continued staff reductions can be gleaned from the following Customs and Commerce Department data. Total merchandise imports increased in 1983; yet, total collections from tariff and trade activities declined by $195 million last year. Imports of manufactured goods increased by almost $20 billion last year. When faced with the problem of unfair trade practices which result in a substantial loss of revenue to the government, the agency has apparently chosen to reduce entry document scrutiny rather than increase personnel.

Certain ports, notably Chicago, have adopted a system of rotating the import specialists' commodity assignments, thus reducing whatever expertise may remain.

In most ports, at least until the advent last year of Operation Tripwire, agents often disregarded fraud leads supplied by import specialists. Drugs, currency and "Operation Exodus" cases were given top priority. Commercial fraud cases were given low or no priority at all. Agents routinely told the Subcommittee staff that commercial fraud was "not career enhancing." Such cases take a lot of time and are often met with skepticism by Assistant U.S. Attorneys because they are often very difficult to prosecute.

In one port with a very large textile and apparel fraud problem, the number of import specialists has been reduced to three. In addition, one was given the assignment of monitoring apparel imports

from most of the world after only one week's training. In another port which handles a large volume of steel, an import specialist with only a few months of experience and virtually no expertise in steel was given that commodity line.

Despite quotas by type on specialty steel, only one port in the U.S. currently has the capacity to quickly test the metallurgical properties of imported steel. Moreover, the Subcommittee staff knows of no port that has the facilities to routinely weigh imported steel, much of which is subject to tonnage quotas.

The Customs Service has attempted to justify the decline in import specialists by moving toward a post-audit system of checking entry documents. Part of this system is the "Bypass" program, under which the entry documents are not reviewed at all. There is great pressure on district directors to increase the number of entries on "Bypass." "Bypass" guidelines are built into the performance evaluation requirements for import specialists in some ports. Even where they are not, the "Bypass" goals often exceed seventy percent of all entries of non-restricted merchandise. To me, this would appear to be a license to steal.

Last spring, an experiment with one hundred percent Bypass was carried out in the Chicago district. For thirty days, all entries of non-restricted merchandise were accepted as submitted. The import specialists then had thirty days to review these entries. Under the pressure of a doubled workload, the error rate uncovered was twenty-one percent. Even more important, Customs brokers and large importers had been officially notified of the test, thus skewing the results toward fewer errors. Moreover, thirty-five percent of all entries were already on bypass, and these were excluded from the test. The Government collected $1,500,000 in duties that would have been lost under one hundred percent bypass.

The moral equivalent of a bypass for inspectors on the docks and in the airports is called "Accept." Based on instructions from Headquarters, which are transmitted on a frequently non-functioning computer system, field inspectors let most cargo pass through Customs without physical inspection.

The "Accept" program attempts to rationalize the ever-declining number of inspectors and the ever-increasing volume of imports. But there is a point at which the risk of detection is so low and the

chance for profit so high that an "Accept" type system loses control, no matter how well designed. The Customs Service may well be at or beyond that point. One inspector from the Los Angeles airport testified that if computer firms other than Apple registered their copyrights with Customs, the forty-five inspectors at LAX would be so overwhelmed that they would not be able to check anything other than computer shipments.

In a Philadelphia case, local narcotics officers stumbled across a warehouse containing several hundred counterfeit Apple computers from Taiwan. The computers and components were apparently being smuggled into the U.S. in containers loaded with heavy machinery. Over a thousand additional counterfeit Apple computers were seized this past December in California after the company hired private investigators to conduct undercover sting operations against importers. Counterfeit labels and logos have been found concealed in the middle of a container of shirts without brand names. Customs officials concede that the overwhelming majority of containers are never opened and the few that are opened are not thoroughly checked.

In December 1982, the Customs Service proudly announced that it had eliminated Customs inspectors assigned to bonded warehouses. The Customs Service permits certain goods to be entered under bond. Duties are deferred until the goods are released into U.S. commerce. Merchandise which is intended for a third country can be transshipped through the U.S. under bond and stored in bonded warehouses pending reexport. Bond applications are even accepted for storage on the premises of the importer pending entry into U.S. Commerce. Elimination of bonded warehouse officers essentially places warehouse owners on the honor system. Customs does not have sufficient auditing capacity to inspect these warehouses with any significant frequency. Last spring, less than six months after the bonded warehouse officers were removed, an audit was conducted of two hundred bonded warehouses. $444,400 worth of violations were discovered, including $61,000 in lost revenue.

That serious problems existed with bonded warehouses should be no surprise. Lax enforcement in previous years had led to several scandals involving goods disappearing from bonded warehouses.

Customs officials experience even more problems with foreign trade zone warehouses. These are intended to house merchandise for reexport. It is Customs policy not to inspect the goods as they enter

or leave the zones. In one part of the country, counterfeit jeans were being sold in the foreign trade zone. Shirts reportedly scheduled for transshipment to South America were on their way to New Jersey when discovered. Perfume was magically transformed into baby shampoo and sand in another warehouse. Stories abound of containers full of goods entering foreign trade zones and exiting empty or filled with other goods.

Falsification of paperwork appears to be a simple matter. In a recent case involving the Atlanta Foreign Trade Zone, $4.9 million in duty due the U.S. Treasury was apparently lost to fraud involving misdescription of foreign orange juice concentrate as orange drink.

Ex post facto audits work for the Internal Revenue Service, but they cannot be relied upon as the principal means of uncovering customs fraud. After goods enter the commerce of the United States, it is virtually impossible to determine if they were accurately described in Customs entry documents. In the Mitsui steel case, the largest civil penalty ever collected by Customs, the entry documents were perfect -- and false. The Customs Service was able to act only because inside informants produced highly incriminating telexes, which permitted Customs to obtain search warrants and catch Mitsui by surprise.

In addition to the ill-fated attempt by the Customs Service to emulate the IRS in its entry review process, another addlepated analogy with IRS procedures is the concept of "Customs Avoidance." This term, which apparently parallels the distinction drawn by the IRS between tax evasion and tax avoidance, refers to conscious efforts by importers to alter the nature of their goods so as to place, or attempt to place, the goods in a different tariff category.

As the Subcommittee learned at its March 6 hearing on textile and apparel fraud, any importer wishing to "avoid" import quotas can physically alter or simply misclassify merchandise with the knowledge that, if discovered, the worst that will happen is that they will be required to obtain the correct visa. We have seen imports of fuchsia colored pants with feminine styling entered as men's wear, shorts with flimsy linings that are intended to be removed before sold as swimwear, non-functional tops added to jeans in an effort to enter them as bib overalls, shirts and blouses sewn together and entered as dresses, and other obvious attempts to misclassify goods so as to evade international quota agreements and, in many cases, reduce duty.

Virtually none of these schemes, if discovered, place the importer in criminal or even civil jeopardy. The effect of "Customs Avoidance" is to call into question the usefulness of the quota agreements themselves for several key items.

Operation Tripwire may meet the same fate as Operation Steeltrap unless Congress specifically mandates an extensive commercial fraud effort. Steeltrap was instigated when Customs discovered, during its Mitsui investigation, that Customs fraud violations involving steel imports were massive and nationwide. After only two criminal cases were settled, Steeltrap was folded, not for insufficient leads, but because political priorities changed. Two-thirds of all special agents were assigned to the Operation South Florida anti-narcotics task force over a nine-month period. There were simply not enough people left to investigate commercial fraud.

Already scarce Customs resources will be further depleted this year because Customs agents will be required to assist the Secret Service in protecting Presidential candidates. In addition, the flood of athletes and visitors to the Los Angeles Olympic Games this summer will tax Customs operations on the West Coast.

The Oversight Subcommittee is aware of at least two instances where the Customs Service has refused or attempted to refuse to perform its statutory requirements due to budget constraints. Approximately two years ago, Customs informed the FCC that unless they received an additional $250,000, they would no longer require the filing of forms which certified that certain imported electronics goods met FCC emission standards. When Customs could not produce a cost accounting, the FCC denied the funds request and Customs stopped enforcing the requirement. As a result, domestic firms spend substantial sums to meet these standards, but foreign firms get a free ride. At least in the case of foreign pirates, dangerous computers are entering the U.S. which the Customs Service ignores.

In February, a senior Customs official wrote the ITC requesting that it deny an exclusion order on certain personal computers which violate U.S. patents on the "public interest" grounds that Customs lacked the resources to enforce the order. Five days later, that same official appeared before your sister Subcommittee in the House on a panel that requested a 954 position cut in the Customs budget. The testimony of this panel was that vigorous enforcement efforts would continue, even with such a cut.

Specifically, the Subcommittee on International Trade should consider earmarking funds for the following activities:

-- Fifty additional Customs agents should be assigned abroad. Three people in the Hong Kong office have responsibility for all Customs investigations in Southeast Asia, the hotbed of counterfeiting. During the first two months of Operation Tripwire in New York, 142 requests were made to investigate apparent transshipment of textiles and apparel designed to evade the bilateral agreements the U.S. has under the Multifiber Agreement. The Customs Service was able to dispatch one agent from headquarters for three months to check on these and other requests from all other ports. Taiwan, the counterfeiting capital of the world, has no Customs presence. The estimated cost of these additional agents is $7,500,000.

-- Regional fraud coordinators with initial responsibilities in the areas of steel, electronics, textiles and apparel should be assigned to each office. Any shift in areas of emphasis to be reported to Congress annually. Estimated cost of these additional agents is $2,800,000.

-- Twenty positions should be added at the Commercial Fraud Center Headquarters so that additional resource persons can be quickly assigned to the regions and districts as large cases develop, thus eliminating the need to strip some districts of their fraud detection capability when manpower is needed to work complex investigations and examine large volumes of documents. Estimated cost is $1,000,000.

-- Fifty agents and a like number of inspectors and regulatory auditors and one hundred import specialists devoted entirely to commercial fraud work should be distributed as needed in district offices across the United States. The Congress should specifically require that the positions vacated by these employees must be filled. Further, all agents assigned to these units should have no less than two years of experience in fraud and all employees so assigned should receive a temporary grade increase. If their performance is satisfactory for two years, the increase should become permanent. Estimated costs of this program is $16,000,000.

-- Additionally, $1,000,000 should be set aside annually for training and communication purposes to develop these individuals into crack teams capable of doing extensive proactive work.

-- Additional monies will also be required to pay informants and moniety. Support functions and travel cost may not be sufficient in the previous estimates. Therefore, an additional $1,000,000 should be set aside for contingencies.

This total increase of $29,300,000 dedicated to commercial fraud does not represent a huge increase in personnel over that which was planned by the U.S. Customs Service itself. In a letter to me dated September 19, 1983, Commissioner Von Raab explained that commercial fraud efforts included a Headquarters contingent of five agents, four import specialists, one inspector, one program analyst, one computer specialist, and two clericals. The forty district fraud teams consisted of forty-six agents, twenty-four import specialists, eight inspectors and two auditors. He further stated that the number was expected to double in 1984.

Based on Commissioner Von Raab's figures, a total of 102 special agents, fifty-six import specialists, eighteen inspectors, eight other specialists and four clerical support personnel would be required for Operation Tripwire in 1984. My suggestions for FY 85 would add only forty-eight agents, forty-two import specialists, twenty-four inspectors, regulatory auditors and other specialists to the program.[1]

However, these positions are currently funded by rotating people out of their present positions and are viewed by the individuals as temporary assignments. By institutionalizing the job assignments, expertise and enthusiasm can be developed. Given the demands on

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[1]The dollar amounts included in my estimates are considerably higher than the Customs Service figures of $42,200 per inspector, $53,100 per import specialist, and $57,900 per special agent which include only salaries and benefits. My estimates of $150,000 per special agent overseas, $100,000 per special agent in the United States, $70,000 to $80,000 per import specialist, inspector and regulatory auditor are based on rules of thumb employed by Customs officials to include facilities, vehicles and other equipment, clerical support and travel costs.

Customs personnel, it is doubtful that commercial fraud will continue to receive priority without additional dedicated funding.

I have serious doubts that even the level of funding suggested above would be sufficient. The General Accounting Office, which is currently studying the cost-effectiveness of the reduction of import specialists, should be requested to perform a complete review of the program after one year of operation at this funding level.

Moreover, I am certain that the program will pay for itself many times over. Calvin White, director of Operation Tripwire, testified that during calendar 1983, the commercial fraud effort of the Customs Service resulted in the collection of about $31 million in fines, penalties and forfeitures on an expenditure of about $2.8 million exclusive of salary costs. Thus, the Customs Service recovered over $11 for every dollar spent on commercial fraud activities, clearly a prudent use of the taxpayers' money.

More importantly, the interdiction of illegally priced goods, restricted merchandise and contraband may well convince our foreign competitors and their American co-conspirators that U.S. trade laws and other statutes and regulations cannot be violated without substantial risk.

There are several other areas which I would hope this Subcommittee might consider. In terms of budget items, our investigation suggests the following improvements need to be made in the operations of the Customs Service:

-- The corps of import specialists should be increased to 1,400. This would be exclusive of those assigned to commercial fraud teams.

-- The inspector corps should be increased to assure that all packages and containers of restricted merchandise and a much larger sample of other shipments are examined.

-- Provisions should be made for equipment to analyze all questionable goods. Scales should be installed for heavy tonnage quota items. Also, lab facilities and other analytical equipment used to test for such factors as fiber content or chemical composition, should be upgraded.

-- Bonded warehouse officers and the Customs lock system should be restored. Provisions should be made to inspect goods imported into the U.S. for reexport, both at the time of entry and departure. Foreign trade zones should come under special scrutiny.

I have attached a financial analysis of the FY 85 President's Budget. This analysis was prepared by Paul E. Suplizio, a consultant to the National Treasury Employees Union, using only the data submitted by Customs. His calculations show that $39,279,000 must be added to the Administration's request just to equal the personnel levels incorporated in the FY 84 Appropriation. This appropriation was some 650 positions short of what the Trade Subcommittee actually authorized last year.

It should be emphasized that the $29.3 million which I believe is a minimum for the commercial fraud program should be over and above the $39.3 million necessary to maintain the U.S. Customs Service a FY 84 levels. Additionally, I believe that a very good case can be m e for the addition of $12.6 million for the five hundred bonded warehouse inspectors (with two hundred positions paid for by reimbursement from warehouse proprietors).

The Union's calculations show that for an additional $53.5 million, "Bypass" can be reduced from its current level of fifty percent of all entries to a more appropriate twenty percent; the number of physical inspections of containers increased to 105,000 (still well under four percent); and the number of investigations completed increased from 7,500 to 12,000 with the backlog cut fro 3,700 to 3,000. These are worthwhile goals which I believe should receive your Subcommittee's serious attention.

There are a number of problems with Customs regulations and procedures. Some are the subject of the Subcommittee on Oversight and Investigation's report on intellectual property theft. Others have been or will be examined in further hearings we intend to hold this year. I look forward to working with Chairman Danforth and the other Members of the International Trade Subcommittee to assure that this country has a modern, efficient and effective Customs Service.

U.S. CUSTOMS SERVICE FY 1984 APPROPRIATIONS, FY 1985 BUDGET REQUEST, AND AMOUNTS REQUIRED TO RESTORE FY 85 CUTS

	FY 84 APPROPRIATION[1]		FY 85 BUDGET REQUEST		INCREASE (+) OR DECREASE (-) FOR FY 1985		ADD-ON REQUIRED FOR RESTORATION TO FY 84 LEVEL		RECOMMENDED BASELINE FOR FY 85 APPROPRIATIONS	
	Amount(000)	Avg Psns	Amount(000)	Avg Psns	Amt(000)	Avg Psns	Amt(000)	Avg Psns	Amount(000)	Avg Psns
Inspection and Control	279,249	6,561	265,886	5,949	-13,363	-612	+21,608	+612	287,494	6,561
Tariff and Trade	157,074	3,541	164,151	3,231	+ 7,077	-310	+10,905	+310	175,056	3,541
Tactical Interdiction	76,823	1,831	78,682	1,799	- 1,859	-32	+ 1,766	+32	80,448	1,831
Investigations	81,758	1,390	76,616	1,390	- 5,142	--	+ 5,000	--	81,616	1,390
Sub-Total	594,904	13,323	585,335	12,369	- 9,569	-954	+39,279	+954	624,614	13,323
Operation & Maint., Air Interdiction Prog.	31,000	--	17,070	--	-13,930	--	--	--	17,070	--
Total	625,904	13,323	602,405	12,369	-23,499	-954	+39,279	+954	641,684	13,323

1. Includes $9,961,000 FY 1984 pay supplemental

CUSTOMS BONDED WAREHOUSE PROGRAM -- RESOURCE REQUIREMENTS FOR RE-ESTABLISHMENT IN FY 1985

When Customs terminated its physical presence at bonded warehouses in FY 1984, it had 314 Inspector positions committed to the program. Of these, 114 were paid from appropriated funds and 200 from reimbursement by warehouse proprietors.

To re-establish the program, a minimum of 300 positions should be deployed.

Appropriations required would be:

-- To Fund 100 Inspectors[1]	$4.2 million
-- To Fund 300 Inspectors	$12.6 million

1. Remaining 200 positions would be funded by reimbursement by warehouse proprietors

CUSTOMS INSPECTOR, IMPORT SPECIALIST, AND SPECIAL AGENT REQUIREMENTS FOR ENHANCED COMMERCIAL FRAUD ENFORCEMENT AT THREE LEVELS OF EFFORT, FY 1985

ENFORCEMENT LEVEL	INSPECTORS		IMPORT SPECIALISTS		SPECIAL AGENTS		TOTAL	
	Number	Cost	Number	Cost	Number	Cost	Number	Cost
I	75	$3.2	95	$5.3	146	$8.5	316	$17.0
II	211	$8.9	270	$14.3	195	$11.3	676	$34.5
III	483	$20.4	358	$19.0	244	$14.1	1085	$53.5

RECOMMENDATION FOR $28.0 MILLION TOTAL COST:

Inspectors	400	$16.9
Import Specialists	100	$ 5.3
Special Agents	100	$ 5.8
Total	600	$28.0

Note: Number refers to average positions; cost is in millions

CUSTOMS IMPORT SPECIALISTS -- COMPUTATION OF NUMBER REQUIRED FOR PROCESSING OF MERCHANDISE ENTRIES AT THREE DIFFERENT ENFORCEMENT (BY-PASS) LEVELS, FY 1985

ENFORCEMENT LEVEL	BY-PASS (%)	NUMBER OF ENTRIES FY 85 (000)	NUMBER OF ENTRIES TO BE PROCESSED BY IMPORT SPECIALISTS (000)	ENTRIES PER IMPORT SPECIALIST[1]	NUMBER OF IMPORT SPECIALISTS REQUIRED	ADD-ON TO FY 1984 LEVEL[2]	COST (MILLIONS)
I	35%	5,989	3,892	3,423	1,137	+ 95	$ 5.3
II	25%	5,989	4,492	3,423	1,312	+270	$14.3
III	20%	5,989	4,791	3,423	1,400	+358	$19.0

1. Average level of productivity in FY 1985 assumed by the Administration's budget request. If productivity falls short of this figure, required number of Import Specialists will be larger

2. Number of Import Specialist positions in FY 1984 is 1,042

CUSTOMS INSPECTORS -- COMPUTATION OF NUMBER REQUIRED FOR INSPECTION OF CONTAINERIZED SHIPMENTS AT THREE DIFFERENT ENFORCEMENT LEVELS, FY 1985

ENFORCEMENT LEVEL	INSPECTION RATE (%)	NUMBER OF ARRIVING CONTAINERS	NUMBER OF INSPECTIONS	AVERAGE NUMBER OF INSPECTIONS PER INSPECTOR[1]	NUMBER OF INSPECTORS REQUIRED	ADD-ON TO FY 84 LEVEL[2]	COST (MILLIONS)
I	3.2%	3,000,000[a]	96,000	22.0	4,364	+ 75	$ 3.2
II	3.3%	3,000,000[a]	99,000	22.0	4,500	+211	$ 8.9
III	3.5%	3,000,000[a]	105,000	22.0	4,772	+483	$20.4
FY 80 LEVEL	2.9%	2,800,000	81,234	19.5	4,165[b]		

1. Average of 19.5 inspections per Inspector in FY 1980 increased by 2.5% per annum for productivity growth
2. Number of Inspector positions in FY 1984 is 4,289

a. Estimate

b. Actual

CUSTOMS SPECIAL AGENTS -- COMPUTATION OF NUMBER REQUIRED FOR ENHANCED COMMERCIAL FRAUD ENFORCEMENT AT THREE DIFFERENT ENFORCEMENT LEVELS, FY 1985

FISCAL YEAR	NUMBER OF NEW INVESTIGATIONS INITIATED	NUMBER OF INVESTIGATIONS COMPLETED	INVESTIGATIONS BACKLOG AT YEAR END	AVERAGE NUMBER OF NEW INVESTIGATIONS PER SPECIAL AGENT[1]	NUMBER OF SPECIAL AGENTS REQUIRED	ADD-ON TO FY 1984 LEVEL[2]	COST (MILLIONS)
1983		7,500	3,700				
1984	8,800	8,500	4,000	9.4			
1985	9,500	9,500	4,000	10.2			
ENFORCEMENT LEVEL							
I	10,000	11,000	3,000	10.2	1,078	+146	$ 8.5
II	11,500	11,500	3,000	10.2	1,127	+195	$11.3
III	12,000	12,000	3,000	10.2	1,176	+244	$14.1
+100 SA's	10,500	10,500	3,000	10.2	1,032	+100	$ 5.8

1. The number of new investigations initiated divided by the number of Special Agents (932 for FY84 and FY85)

2. Number of Special Agent positions in FY 1984 is 932

Senator HEINZ. And I have some questions, but I want to state for the record and ask Mr. von Raab to comment on it whether or not it is his understanding that—at roughly these kinds of levels of funding for the Customs Service—each dollar additional in customs operations has been yielding about $18 average in revenues. Is that not a reasonably accurate statement of the return?

Mr. VON RAAB. That is correct.

Senator HEINZ. Now, that is for customs activities overall. Now, you have an operation called Operation Tripwire, which is aimed specifically at commercial fraud types of problems. Is that not correct?

Mr. VON RAAB. Yes.

Senator HEINZ. I am advised that last year Operation Tripwire returned $150 for each $1 spent not including salaries. Is that correct?

Mr. VON RAAB. I am not aware of that number. Is that correct? It is possible, but I can only say that if it is wrong, we will get back to you with a correction to it.

Senator HEINZ. I am told that in 1983, for example, an increase of $70,000 in enforcement resources yielded $31 million in collected duties and fines for violations. Does that sound correct?

Mr. VON RAAB. Yes; that is correct.

Senator HEINZ. That is correct. Similarly, I am told that the additional resources devoted to commercial fraud this fiscal year in the amount of $105,000 has thus far yielded $15 million in collected revenues with a promise of further success throughout the end of the year. Is that correct?

Mr. VON RAAB. Yes; that is correct.

Senator HEINZ. Mr. Chairman, there seems to be substantial evidence that those kinds of returns on investment make a prima facie case. It is clear that the customs budget could not possibly be sufficient to catch as much fraud as there is and perhaps even significantly deter the large amount of fraud that is taking place. I have a number of more specific questions that I would like to ask, and maybe what I will do in deference to our colleagues is wait until they have asked their questions, and then pursue my more specific questions, if that might be appropriate.

Senator DANFORTH. That is fine, Senator Heinz.

Mr. VON RAAB. Mr. Chairman, may I just respond briefly to Senator Heinz' comments? I think it might be of some interest. There may have been a 22-percent increase in total merchandise imports in 1983. There definitely was a $196 million decrease in duties during the same period. That is correct. While formal entries increased by 12 percent, the value of imports declined 1.5 percent from fiscal year 1982 to fiscal year 1983. The 2-percent decline—the $196 million—we believe was due to lower duties collected on consumption entries, more specifically we believe that negotiated restraints in the U.S. import of steel tubes, pipes, and fittings accounted for about a $2.9 billion decline in the import value of these goods between fiscal years 1982 and 1983.

Senator HEINZ. Did you say $2.9 million?

Mr. VON RAAB. Billion. $2.9 billion. Estimated duties collected on these goods declined by $221 million. Therefore, we believe that, for the most part, that close to $200 million decline in customs collec-

tions was attributable to lower tube and pipe imports. I just thought that might help to explain why customs revenues have gone down irrespective of the budget levels that the Customs Service has maintained during these 2 years.

Senator HEINZ. But you do not disagree with any of the other facts and figures, the accuracy of which you generally testified to regarding enforcement a moment ago?

Mr. VON RAAB. Operation Tripwire is an effort on our part to combat serious commercial fraud. It reflects the same approach to customs work that I described previously to the chairman. We have tried to take import specialists out of some of the routine matters, which I refer to as "riding the in-basket" and team them with our agents and other experienced customs personnel to work on serious drains on duties or significant violations of tariff and trade laws.

I would like to think that the approach we are taking in Operation Tripwire can be continued and improved by giving customs officers—whether they be import specialists or agents—slightly different responsibilities from those they have had in the past and by placing them in programs with a higher payoff. I believe that is what you have seen with Operation Tripwire, and I don't believe that you necessarily have to increase your budget to do it. It can be done merely by taking personnel in less productive parts of customs activities and putting them into more important or more productive areas. Thank you very much.

Senator HEINZ. Mr. Chairman, rather than take the committee's time, let me just ask one last question, which is this. Mr. von Raab, you testified to the fact that OMB had not been beating you about the head to reduce your budget. Now, of course, when you prepare your budget, you don't submit it directly to OMB—you submit it, I would imagine, first to Under Secretary McNamar, who is your immediate supervisor, and he submits it as part of an overall budget proposal to Secretary Regan. Secretary Regan submits that to OMB. Did you submit a budget to Mr. McNamar or his equivalent—a member of his staff—that was larger than what you are saying you need?

Mr. VON RAAB. Yes, we did.

QUESTIONS SUBMITTED BY SENATOR HEINZ TO COMMISSIONER VON RAAB AND HIS RESPONSES THERETO

Question. What percentage of shipments of imported steel are actually looked at by dockside inspectors? That is, what percentage of shipments generally, as well as what percentage of each shipment?

Answer. Examination rates of all merchandise, as well as steel, vary from port to port, depending on volume, resources, fraudulent activity, importer profiles, etc. Specific percentages, therefore, vary from month-to-month and according to the type of shipments.

With regard specifically to steel and steel products, Customs has established minimum examination requirements which include verification and correspondence of invoice, shipment quantity, and appropriate markings, and accuracy of physical and material characteristics. To confirm this examination, a significant sample is analyzed by Customs laboratories to verify product classification.

Question. Are these percentages an increase or decrease over previous years?

Answer. Although the number of examinations are generally at the same level, the quality has been improved by the introduction of a more systematic selectivity approach for all cargo processing. This approach will permit Customs to better implement commercial fraud initiatives against the increased risk in the steel product line. In addition, we are conducting more intensive physical examinations.

Question. What effect have cutbacks in inspection and control personnel had on these percentages?

Answer. To ensure equal or improved enforcement and facilitation in the face of personnel cutbacks, we have introduced selectivity principles into cargo processing which concentrate our efforts on selected high-risk shipments identified by automated intelligence criteria. We are also employing valuable data regarding foreign suppliers and domestic importers. Further, resources are being redirected and/or reallocated as computer technology and selectivity are applied to more of our daily activities. Savings in manpower, which will accrue, will offset anticipated workload increases and reduce the requirement for additional positions.

Question. How many import specialists are assigned to steel in major ports of entry such as Los Angeles and Houston?

Answer. The number of import specialists assigned to steel lines in the 10 major steel importing ports are:

Los Angeles—3
Houston—6
Detroit—4
New Orleans—2
Chicago—3
Philadelphia—3
San Francisco—2
Bridgeport—2
Buffalo—6
Cleveland—2

Question. Has the number of specialists for this particular commodity increased commensurate with the larger volume of imports?

Answer. The number of import specialists assigned to steel has not increased substantially. However, in those cases where the workload has increased, the percentage of time spent on steel has increased. It should be noted that the additional workload caused by a larger volume of imports is offset in most cases by the much curtailed Trigger Price Mechanism (TPM). The time the import specialist has to spend in TPM is considerably less than previously.

Question. How have increased responsibilities impacted the effectiveness of these specialists? How, for example, have the new agreements on quotas and the increased number of countervailing and antidumping duties which add to workload impacted their effectiveness?

Answer. There has been no deterioration in the effectiveness of the import specialists. The monitoring of the European Commodity agreement is proceeding smoothly and the Commerce Department has not experienced any major problems with it. The time spent processing steel entries covered by either the agreement or dumping/countervailing duties is minimal. The additional workload represented by these entries and by the larger volume of imports is mostly offset by the decrease in time spent processing TPM entries.

Question. Are the resources currently being devoted to Operation Tripwire sufficient to prosecute violations which have been discovered?

Answer. Yes, all significant violations of Customs laws are being investigated and prosecuted. Approximately 120 Special Agents are dedicated to working fraud cases developed under Operation Tripwire. In addition, three steel task forces are underway to specifically investigate and prosecute several major steel import violators. Customs is also currently conducting separate civil investigations of the above mentioned criminal cases to avoid unnecessary delay in adjudicating the matters.

The Justice Department has assigned attorneys from the General Litigation and Legal Advice Section, Criminal Division, to assist United States Attorneys in the prosecution of steel importation cases. With the added resources, the steel investigative and prosecutorial efforts are progressing in a timely manner.

Question. Are there sufficient personnel and expense funds available to the fraud program?

Answer. Operation Tripwire is adequately staffed to support the current significant investigations. For FY 84, Customs has also allotted special operation funds specifically for fraud investigations. Also, there are sufficient funds for salaries and normal operating expenses of the Customs officers jointly working on all other fraud investigations not covered by the special operations funds.

Question. What percentage of shipments of steel is sampled and tested for chemical content?

Answer. Steel enters the country in a variety of shapes and forms, such as bars, wire, pipe, etc. We have analyzed the importation data for several key steel products for FY 1983, and have determined that the overall (weighted average) sampling rate for steel products is 0.21 percent, which is quite good in view of the severe difficulties inherent in sampling a product of this type. The data also show that as a result of laboratory analysis these steel products have a (weighted average) "change rate" of 15.95 percent; this means that about one out of every six samples were found by the laboratory to be incorrectly described as to stated alloy composition,

claim for having undergone a heat-treatment, or other Tariff-related characteristic. More detailed information is available on the attached table.

The following table, which covers FY 1983, contains the transaction data for steel imports by product line and range of Tariff item numbers, the number of transactions containing each item number, the number and percent of those transactions which were sampled for laboratory analysis, and a (weighted average) change rate, which is the rate at which the invoice description of these products was found to be in error.

Product line	TSUS item	Transactions—		Percent sampled	Average change rate [1] (percent)
		Number of	Number sampled		
Bars	606.79–606.99	25,934	8	0.03	22.22
Wire rods	607.14–607.59	14,318	46	0.32	18.82
Plates and sheets	607.62–608.14	62,345	33	0.05	5.88
Strip	608.19–608.67	6,555	5	0.08	31.25
Wire	609.20–609.76	23,280	160	0.69	11.48
Angles	609.80–609.98	27,418	13	0.05	31.03
Pipes and tubes	610.30–610.52	41,790	161	0.39	18.07
Total		201,640	426		

[1] Both the average change rate and the overall (weighted average) change rate are calculated on a 24-month basis; thus during fiscal years 1982 and 1983, there were 790 sampled transactions of which 126 (15.95 percent) changed.

Question. Will there be any cutbacks in lab personnel in the budget, and if so, how will these cutbacks affect the above percentages?

Answer. We will be able to save five positions from the Customs laboratory system without in any way affecting our abilities to adequately monitor steel imports and enforce the laws. Our sampling rate for steel products is running about 0.2 percent overall. This is similar to the rates for other, more readily-sampled commodities and is quite high indeed for a commodity that presents us with such unique sampling challenges.

Question. Are there plans to close facilities in the near future?

Answer. In accordance with the recommendation in Senate Report 98–186 for the 1984 Treasury, Postal Service, and General Government Appropriations Bill, we sent letters last week to the Chairmen of both the Senate and House Committees on Appropriations to advise them of our intent to consolidate the San Francisco and the Los Angeles Field Laboratories into the latter facility. The transfer of the San Francisco Laboratory's staff, equipment, and function will probably occur before November 1, 1984 but will not be effective prior to September 1, 1984. We also prepared notification to NTEU, the Director of the Laboratory in San Francisco, and other appropriate officials.

Question. What facilities have equipment for testing the content of steel?

Answer. Each of our field laboratories has the basic equipment necessary to determine the alloy composition of steel and its fundamental metallographic characteristics. (This equipment consists of atomic absorption spectrometers or emission spectrometers for the composition and metallographic microscopes for the metallography.) Currently, the New Orleans, Chicago, and Los Angeles Laboratories are somewhat more specialized in the area of steel analysis than the others. We have also upgraded the capabilities of several laboratories in recent years by the acquisition of automated X-ray fluorescence spectrometers to augment our capabilities to determine a steel's composition, and we are researching the potential Customs applications of a modification of an atomic absorption spectrometer through the ICP (Inductively Coupled Plasma) technique. In addition, the scanning electron microscope (SEM), which is currently located in the San Francisco facility and which is used in certain cases to determine the cladding on steel, will be moved to Los Angeles under the transfer-of-function described above.

Question. Why has the Customs Service not taken industry up on its offer to provide spectrometers for use in combatting fraud?

Answer. There are several reasons why we did not accept the industry's generous offer. Primary among them was the fact that the industry could not provide definitive answers to several very important questions, including the type of equipment being offered, its age and condition, and its location. In addition, we were advised

that the equipment would be coming from steel mills that were closing, and we therefore concluded (and the industry could neither confirm nor deny) that the equipment was of the "ruggedized" variety designed to monitor one or two elements under "in-plant" conditions, and therefore would not have either the sensitivity or the range needed for Customs fraud enforcement purposes. Also, we were reluctant to acquire second-hand equipment of questionable age and condition because of the very high costs for service and maintenance. Finally, our laboratory instrumentation is modern and effective, and thus our most urgent need at this time is not for laboratory equipment per se, but for a mobile analysis capability comprising instruments able to screen steels "on the docks," plus appropriately-equipped vehicles for their transport and trained staff to operate the equipment and interpret the results. We have one such unit operating out of New Orleans Field Laboratory.

Senator HEINZ. Thank you.

Senator DANFORTH. Senator Bentsen?

Senator BENTSEN. Thank you, Mr. Chairman. I have a statement that I would like to enter into the record in its entirety. Commissioner, I looked at this budget of yours. You are talking about eliminating 954 positions and 625 of them frontline positions. You talk about cutting expenditures $23 million, reducing the work force by 7 percent, collecting revenues at a faster pace, speeding up processing, and better defending our borders against the intrusion of illicit importations. Now, I need rosier glasses than these to believe that one. And then, when you say to the chairman that you don't have any study that has been made—any management study to back up the increases in productivity and cuts and appropriations that you are talking about—I don't find this Customs Service budget either helpful or proper or productive or realistic, and I am going to do everything I can to try to change it.

I just think it is wrong. Now, you have got a revenue-producing service, and we are trying to cut this deficit. And when Senator Heinz asked you about the decrease in productivity it brought this to mind; back in 1979, the productivity per dollar expended was about $19 to $1. In 1983, it is about $17 to $1. It wasn't just steel pipe. I can take a look at the numbers going back to 1979 and 1980, and we weren't reducing the importation of steel pipe in 1980, that I recall, were we? And yet there is the falloff in the amount of money that is collected?

I have seen some studies that say that you can bring about a 3 percent increase productivity through use of machines, but you are looking at a 9 to 17 percent increase in the workload. And those things just don't gel.

Now, when we are talking about raising more money, the administration turns around and hires more IRS auditors. And hopefully they are going to be able to find some of the tax evaders and bring in more revenue. Now, when you have got a service that earns money, and even at $17 to $1 it seems to me a good payoff.

Another place that you are going to have an adverse inpact is along that Mexican border. You have a real economic crisis in Mexico, and it has spilled over on our side along the Texas border, the Arizona border, California, and New Mexico. Then, you are talking about cutting back on the number of people involved here. That means those individuals who can still come over to the U.S. side and trade are going to find further delays, in my opinion, if you cutback again on the people filling those positions. Again, I think that that is a serious mistake. Now, the chairman and I both wrote you on February 23—I have a copy of it here—asking you

point by point, district by district, the details on the proposed organizational realignments and consolidations.

Have you answered those questions in that letter at this time?

Mr. VON RAAB. I am sorry. We are developing that list but do not feel free to release it until we have had it approved by the Treasury Department, and since that hasn't happened yet it could change.

Senator BENTSEN. Unless you had made that kind of a study already, you wouldn't have known where to make your suggestions for the budget. So, that information must be available and you must have had it at the time that you drew up the budget. Is that not correct? You didn't put this budget together in a vacuum?

Mr. VON RAAB. We do have a little bureaucratic problem here, since such sensitive information must be approved by the Treasury Department. You asked whether the Customs Service has a good idea of the areas to be affected. My answer is that we do. But until we have received the blessings, so to speak, of the Treasury Department, we don't feel that it is proper to release it, especially since it could be changed. And therefore, the information you received may be inaccurate.

Senator BENTSEN. Let me see if I can make a pretty good estimates as to where those changes are being proposed.

[Pause.]

Senator BENTSEN. Well, I don't find it at the moment, Commissioner. Let me see. I am told that this thing that you have proposed would allow 415 inspection positions to disappear in fiscal year 1985, 51 of them in Texas—51 of them in Texas. And the Texas ports of entry would lose the following inspectors—Houston, 2 cargo, 2 passenger; Dallas, 1 cargo, 1 passenger; Houston seaport, 2; Brownsville, 10; Del Rio, 5; Laredo, 15; Eagle Pass, 3; Dallas, 8; El Paso, 10. You take Laredo, for example, it has more people coming through Laredo than JFK does in New York. It is a very major port. Would you comment on that?

Mr. VON RAAB. My only comment on that is that the Customs Service has undertaken to do a number of analyses of the best way to accomplish these reductions. There are a number of documents that are circulating at the Customs Service, but the final decision as to where and how these reductions will be made are the result of a process which I would formally propose to the Treasury Department. But the Treasury Department must approve my recommendations, and that has not taken place. And so, what you are referring to are preliminary proposals being circulated at the Customs Service. They are not approved.

Senator BENTSEN. This budget proposal legislation has to be enacted, doesn't it?

Mr. VON RAAB. Yes.

Senator BENTSEN. Consolidation with the U.S. Immigration and Naturalization Service? Isn't that part of your budget savings? At what status is that piece of legislation? Has it been introduced? Has it passed any of the bodies? Or either of them?

Mr. VON RAAB. Mr. De Angelus is part of the OMB, Justice, and Treasury team working on the consolidation issue, so I will ask him to respond to that question.

Senator BENTSEN. All right.

Mr. DE ANGELUS. Senator, the INS consolidation is not a part of our 1985 submission.

Senator BENTSEN. It is not a part of the budget?

Mr. DE ANGELUS. It is not a part of the budget at this time. The legislation is being drawn up to accomplish the consolidation. However, these budget figures for 1985 do not include the INS proposal.

Senator BENTSEN. Not inclusive? How about on your airport legislation for saving of some $7 million, as I understand it. What is the status of that?

Mr. DE ANGELUS. That proposal is basically being passed back and forth between our Chief Counsel's office and the General Counsel's office in Treasury. It will eventually be submitted to OMB, then it will be submitted to the Hill.

Senator BENTSEN. Are you saying, then, that you have not taken credit for the $7 million in the budget that is proposed?

Mr. DE ANGELUS. No, the $7 million is in the budget as a saving.

Senator BENTSEN. As a saving? And yet you have not proposed the legislation, and it is still being batted back and forth in the administration?

Mr. DE ANGELUS. That is correct.

Senator BENTSEN. Mr. Chairman, it looks to me like there are a lot of holes in this budget and that the proposals of the increases in productivity are pretty nebulous, and I see no management study that has been accomplished that is going to prove that can be done under this budget. And to wander into these kinds of major changes with computer additions can be extremely expensive. I have seen too often in the private sector mistakes made where it hadn't been thought out and they didn't have a serious management study to bring it about for the implementation. I must say that I feel this budget is a mistake, and I am frankly going to oppose it in its present form. Thank you, Mr. Chairman.

QUESTIONS OF THE HONORABLE LLOYD M. BENTSEN FOR COMMISSIONER OF CUSTOMS VON RAAB, AND HIS RESPONSES THERETO

Question. I understand that funding for license plate readers was included in the Fiscal Year (FY) 1985 budget, but was then deleted. Why was this funding deleted? Are there currently any plans to run a test program for these scanners on the Texas border?

Answer. Funding for this project was not included in the FY 1985 budget request because the system had not been fully tested. In order to test the operation of the system, a one lane prototype automatic license plate reader is scheduled for May 1984, at the San Ysidro, California, port of entry. If the results from the one lane prototype system are positive, Customs is proposing a multiple lane prototype system at San Ysidro during FY-85. There are no plans, at present, to run a test program for these scanners on the Texas border.

Question. Does the Customs Service plan to eliminate the current requirement of corporate surety on Customs bonds? I have noted the October 14, 1983, advance notice of proposed rulemaking to eliminate sureties on Customs bonds. What is your latest count of the comments in support and opposition to the notice? What is your timetable for the publishing of any regulatory action to remove Customs bonds surety?

Answer. The Customs Service is exploring the need to require security on Customs bonds. A public hearing has been scheduled for April 10, 1984, to that end. Until all presentations are analyzed, the Customs Service will not be in a position to formulate definite plans to change the existing Customs bond requirements. There were 18 comments in favor of aspects of the concept and 62 comments opposed. In view of the Continuing Resolution of November 14, 1983, section 140, P.L. 98-151 and section 515 of H.R. 4139, 98th Congress, no timetable for regulatory action has been established.

Question. How long has Customs required corporate surety on Customs bonds? Why do you now feel that this surety bond requirement should be eliminated? Do you not feel that any regulatory change in this area should be adequately reviewed by Congress?

Answer. There is no requirement that any Customs bond be secured with a corporate surety. Customs bonds may be secured by personal sureties, the deposit of money or obligations of the United States, and corporate sureties. Also the Customs Service permitted the use of letters of credit as security. In many instances, the transaction does not involve any threat to the revenue or have any potential to evade United States laws. In those circumstances, there is no benefit to the Government in requiring a secured bond. To interpose Congress in the day-to-day activities of the executive branch would not appear to be beneficial to Congress.

Question. For the most recent reporting period, what was the total amount of duties, additional duties, taxes, and penalties guaranteed by corporate sureties?

Answer. Customs does not have this information, although procedures for collecting it are being developed. Consequently, our answer to the question is somewhat conjectural.

Sureties are required to underwrite most Customs bonds, although bonds are not required for informal entries and certain other kinds of transactions. Based on anecdotal information, it appears that for entries on which surety bonds are required, bonds may cover less than half the amount of duties and taxes owed. This results from bond amounts having been established several years ago and not adjusted to take into account increases in the volume and value of merchandise covered. Importers and brokers are understandably opposed to increases in bond amounts, particularly where they have maintained a good payment record with Customs, because of the cost of surety premiums.

Although as a legal matter sureties may be liable to guarantee somewhat less than half of duties and taxes owed, as a practical matter their liability is generally limited to guaranteeing payment of "additional" duties which are found to be owned on liquidation of entries. These amount to about 3 percent of all duties assessed and, in a majority of cases, the importer pays the additional duties.

Question. Please describe, in order of priority to Customs, the replacement systems for corporate surety that the Service anticipates.

Answer. As stated previously, the Customs Service has not determined whether the present system should be continued or a substitute devised.

Question. Please list the merits of each replacement system to the current surety requirement.

Answer. The options put forward in the Advance Notice were designed to stimulate public comment rather than being definite regulatory proposals.

Senator DANFORTH. Senator Matsunaga?

Senator MATSUNAGA. Mr. Commissioner, as I understand it, you are proposing a reduction of 581 positions in your inspection and control functions. In this connection, I have several questions. Since this clearly affects the Customs Services' ability to intercept illegal drugs, does not this proposal of yours run contrary to the administration's war on the illegal drug trade?

Mr. VON RAAB. We believe that the way in which these reductions may be taken would not adversely affect inspectional effort though it may reduce the number of inspectors.

Senator MATSUNAGA. I am sorry. I didn't catch the last part of your comment.

Mr. VON RAAB. We do not believe that this reduction would adversely affect our inspectional effort though it may reduce the number of inspectors.

Senator MATSUNAGA. One of the greatest complaints I hear from the Customs Service is that the passengers, especially returning passengers into the United States who use Honolulu as their port of entry wait in line as long as 2 hours. Now, with a reduction in the number of customs inspectors, how do you expect to reduce this complaint as well as to inspect more of the luggage, which may contain illegal drugs?

That is the biggest complaint. Every time I get an inquiry relative to complaints by returning passengers, the Customs Service says they can't help it. Now you plan to reduce the number of inspectors. The Service can't do more work with less inspectors. For one thing, the workload is increasing as you reduce the number of inspectors.

Mr. VON RAAB. I am sorry that the information or the perception that you have received of our efforts in Honolulu is as you describe it.

Senator MATSUNAGA. Is that not so?

Mr. VON RAAB. I would have been more comfortable if you had said that was the case 2 years ago, but I believe that matters have really changed in Honolulu. Honolulu was once regarded as the worst airport in the United States from a customs perspective. I have personally spent a lot of time working on the problem and—although it may be that my mail is limited, but I don't think that is the case—the information I receive on Honolulu indicates that facilitation has greatly improved. The way we have done this is not to increase the number of inspectors but to change the way the inspectors do their job. We are taking the pressure off of the law-abiding passenger, passing these individuals more rapidly with only a cursory check, and putting all of our efforts on suspected smugglers. This, in many cases, manifests itself as the so-called red-green system or its variant. I think that you will find that Honolulu has made numerous modifications and, happily, the results are not only improved facilitation, but also improved enforcement. So, I think Honolulu is an example of how changed procedures can improve enforcement and facilitation without increasing inspector staffing.

Senator MATSUNAGA. Well, I am still getting complaints, of course. Instead of a 2-hour wait, you have a one hour and 45 minute wait. That is an improvement, of course, but then we still have the complaints in that regard, and when I take it up with the director there, they say it is a case of lack of personnel. Now, you are proposing this further reduction in your inspection and control functions. Do you have a breakdown as to how many of these will be made at the various ports, including Honolulu?

Mr. VON RAAB. That is the same question that Senator Bentsen was asking.

Senator MATSUNAGA. You don't have it?

Mr. VON RAAB. We have an internal breakdown, but it has not been approved by the Treasury Department. I was saying that until it is approved, it can change. Therefore, at this time it is purely an informal predecisional document. I gather Senator Bentsen had a copy of it, but it has no significance because it hasn't been approved by me or by the Treasury Department, but it is a working staff document on where these reductions might be taken.

Senator MATSUNAGA. When will you have it?

Mr. VON RAAB. I would like to have that as soon as possible.

Senator MATSUNAGA. We would, too, because it is in your 1985 budget.

Mr. VON RAAB. Right. I think we will have it within two weeks.

Senator MATSUNAGA. Then you will provide the committee with that breakdown?

Mr. VON RAAB. If you so request, yes.

Senator MATSUNAGA. I would so request.

Mr. VON RAAB. Yes. Fine. And I would also offer to you—and I will ask my staff to prepare a report—on Honolulu because I was under the impression that things were better than the way you describe them. I hope I am right and you are wrong, but whatever the case, I will give you a full report on Honolulu.

Senator MATSUNAGA. I would certainly appreciate that.

Mr. VON RAAB. Yes.

Senator MATSUNAGA. Now, in the case of cargo processing, as you probably know—and with your approval and recommendation, as I recall, I introduced a bill to increase the amount from $250 to $1,000 of informal entry. Now, that has passed the Finance Committee, as you probably know. Did you take into consideration the passage of that legislation in figuring your 1985 budget?

Mr. VON RAAB. No. We certainly support any increase in the informal entry level, but the 1985 budget does not assume any changes in that level.

Senator MATSUNAGA. I see. I would think that that ought to help in the area of personnel.

Mr. VON RAAB. Not only would it help in the area of personnel, but it would help just in the area of international trade facilitation because $250 is just an unreasonable and archaic number.

Senator MATSUNAGA. Yes, it was way back in the 1950's that it was set. Inflation has definitely gone way beyond that. Now, you said that of the proposed reduction in force, there will be 85 RIF's?

Mr. VON RAAB. No, 923 RIF's.

Senator MATSUNAGA. RIF's? Actual RIF's?

Mr. VON RAAB. Right.

Senator MATSUNAGA. What was that 85 you mentioned?

Mr. VON RAAB. Oh, that could have been man-years, rather than 923 positions.

Senator MATSUNAGA. 923 positions would be RIF'd?

Mr. VON RAAB. That is correct.

Senator MATSUNAGA. Boy, that is a lot, and of this number, 581 will be in inspection and control functions?

Mr. VON RAAB. Generally speaking, that is correct.

Senator MATSUNAGA. As has been pointed out here by my colleagues, as I understand it, we are trying to raise some revenue, and for every dollar spent in the area of revenue collection in the Customs Service, past history shows that we gain $15. Is that——

Mr. VON RAAB. Actually, the numbers are better than that. If you only include the commercial officers of the Customs Service, that is those who are more directly related to collection of revenue as opposed to those involved in the protection of the country from contraband, you really come up with around $70.

Senator MATSUNAGA. $70 for every dollar spent?

Mr. VON RAAB. Yes; in the commercial area. That is correct.

Senator MATSUNAGA. That would be a great investment through the Customs Service. Then, why are you proposing 923 RIF's?

Mr. VON RAAB. Although over the past years the number of officers in commercial operations has been reduced, the ratio has continued to improve, so I am not quite certain that there is no connection. In other words, you can't maintain that the reductions

proposed in the budget are at the point where that ratio would be adversely affected. There is only so much revenue out there to be collected, I guess, is what I am saying.

Senator MATSUNAGA. If I were in your boots, I would be making every effort to convince the administration that RIF's would be contrary to our effort in trying to reduce our national deficit. I can't understand your proposing losing $70 for every dollar not spent. And in your cargo processing, you now have the Accept system. Is Honolulu one of the ports where you have the Accept system installed?

Mr. VON RAAB. I asked Mr. Mach to come in on that. He is responsible for our inspectional program.

Senator MATSUNAGA. If you don't have it, could you include that in the report?

Mr. VON RAAB. I think we do have it.

Mr. MACH. It is not in Honolulu as yet, but it is planned to be in Honolulu. We are now in 32 ports.

Senator MATSUNAGA. How soon do you expect to have it installed?

Mr. MACH. Before the end of this fiscal year.

Senator MATSUNAGA. Before the end of this fiscal year?

Mr. MACH. Yes. I should explain myself. There are two versions of the Accept system. One requires ADP, or automated features and the other is manual. What we are planning for Honolulu is the automated version, which would give you automated selection criteria for use in releasing merchandise. It will be installed at Honolulu, as well as other west coast ports, by the end of this fiscal year.

Senator MATSUNAGA. Thank you. I have no further questions.

Senator DANFORTH. Senator Chafee?

Senator CHAFEE. Thank you, Mr. Chairman. Mr. Commissioner, are any of these reductions going to come in Rhode Island? [Laughter.]

Mr. VON RAAB. If I may, I would like to ask a born and bred Rhode Islander, Mr. De Angelus, to field that question.

Senator CHAFEE. I was hoping you would.

Mr. DE ANGELUS. Senator, we certainly feel that each area of the country would take a proportionate part of the reduction. However, we are just as confident that there will be no adverse effect in the port of Providence in the State of Rhode Island, and there would not be in other areas as well.

Senator CHAFEE. Thank you for that nonresponsive answer. [Laughter.]

Let's pursue that a little more. I certainly hope they won't take additional proportionate cuts. What are you telling me—that there are proportionate cuts and Rhode Island takes some cuts—as you know, you made some cuts there a few years ago when you and I had long conversations, and those were cuts that were meant to promote the efficiency, and there was some consolidation, but actually it was reduced from a port to a what? Or that was the suggestion—it wasn't done at the time.

Mr. DE ANGELUS. While Providence remains only a nominal district, it has all the authority of a district. We did remove the staff functions of assistant district director for inspection and assistant district director for classification and value. And I think, Senator,

that you will agree that, as we promised you, there were no adverse effects to cargo processing or duty collection in the port of Providence. However, if reductions are required, we do believe that there is at least one excess inspector in the port of Providence, and I am equally confident that as in the past, there will be no decrease in service by this reduction.

We are making fundamental changes in the way we process merchandise and the way we go about our enforcement effort. I believe that the numbers will reflect that productivity actually increases while our numbers are decreasing, in an absolute sense.

Senator CHAFEE. I am not going to argue with you on that. I am not going to sit here and complain about the deficits every day and then object to some efforts to do something about the deficits. We are prepared to do our share as long as it is not disproportionate. What have you got your eye on—one person up there? There are only 13 there, aren't there? That is a one-thirteenth percent.

Mr. DE ANGELUS. We do believe that there is possibly one excess inspector position remaining, Senator. If it were vacated, it would not be filled.

Senator CHAFEE. One excess inspector?

Mr. DE ANGELUS. Correct.

Senator CHAFEE. And what about other people?

Mr. DE ANGELUS. As you recall, we did take the administrative cuts already. We removed the two assistant district directors and one or two secretaries, so the administrative cuts have been effected in the district, while maintaining its district status.

Senator CHAFEE. We will follow this with interest, Mr. De Angelus.

Mr. DE ANGELUS. Thank you.

Senator CHAFEE. Now, Mr. Commissioner, let me ask you a question about the changes in the Treasury Department rules as regards Customs dealing with the barring of imports into the United States by those importers who decline to sell through their subsidiaries in the United States but want to sell directly to the big merchandising outlet. Are you familiar with this problem?

Mr. VON RAAB. Yes. The shorthand term we apply to this issue is the gray market issue. Is that correct?

Mr. SCHAFFER. Yes.

Mr. VON RAAB. It is in Mr. Schaffer's bailiwick. If I am permitted, I would like to have him respond to that question.

Senator CHAFEE. All right.

Mr. SCHAFFER. Your concern is probably with the resale of those items and whether or not they are being distributed?

Senator CHAFEE. Yes. As I understand the situation now, they—a foreign manufacturer—sells in the United States through one of his distributors. Seiko sells watches through a Seiko distributor, or Seiko sells watches through a mass retail outlet such as K-Mart or Sears, or whatever it might be. Now, as I understand it, what they are trying to do is to change the rules so that, due to complaints by the Seiko distributors here, they would prohibit Seiko from shipping in to the nondistributor outlets in the United States. Have I got that right?

Mr. SCHAFFER. Essentially. What Seiko is attempting to do is to safeguard their trademark and have us enforce that trademark throughout the entire chain.

Senator CHAFEE. Yes. Now, that is sort of fair trade business, isn't it, which we disbanded in the United States 10 years ago?

Mr. SCHAFFER. Our interest is in assuring that the law is adequately enforced.

Senator CHAFEE. What law?

Mr. SCHAFFER. The trademark violations that may be taking place. So, we are now reviewing the legal responsibilities. The matter is before the Treasury Department at this moment.

Senator CHAFEE. I know that. That is why I am asking the question. To me it is an anti-consumer effort. Why shouldn't the products be sold through the chains here?

Mr. SCHAFFER. Senator, that is exactly the reason the matter has taken so long before a final decision is announced. There are consumer interests. There are also trademark responsibilities that we are charged with enforcing. We have reviewed the law. We have made a recommendation to the Treasury Department, and the matter is being taken under advisement.

Senator CHAFEE. But as I understand it, the suggestion in the protection of the trademark is a radical departure from what has existed under the procedures for many, many years. Am I correct?

Mr. SCHAFFER. That is correct.

Senator CHAFEE. Who is suggesting changing it?

Mr. SCHAFFER. We have reviewed the law and we believe there is a possibility that the law should be enforced differently today.

Senator CHAFEE. You just don't review the law from the blue——

Mr. SCHAFFER. We have been requested by the trademark owners themselves to review that responsibility and we have done so.

Mr. VON RAAB. Senator, there is one other point. There are four lawsuits pending against the Customs Service with respect to this issue, and it is our opinion that the resolution of the issue will largely be a function of the resolution of those lawsuits.

Senator CHAFEE. Say that one again, could you please?

Mr. VON RAAB. Yes. There are four lawsuits against the U.S. Customs Service on this issue. In other words, petitioners who disagree with the way the Customs Service has, over the years——

Senator CHAFEE. Over many years.

Mr. VON RAAB. Over many years—that is correct.

Senator CHAFEE. How many years? 100 years?

Mr. VON RAAB. Thirty.

Senator CHAFEE. Thirty. Why quarrel about that?

Mr. VON RAAB. So, to some degree, the initiative has been lost, as it is with many issues, to the judicial system. Their determination will probably have—if not the entire effect—certainly a very important impact on the final resolution of this issue.

Senator CHAFEE. I can understand that. But I don't understand what you are asking Treasury for.

Mr. SCHAFFER. That process had begun some time ago, but four cases have arisen and that is why the case is delayed.

Senator CHAFEE. My view is that, if the courts are going to decide it, let them decide it, but meanwhile go along the way you

think is right, which it seems to me is the customary practice you have had for 30 years.

Mr. VON RAAB. Basically, that is what is happening now, but there was—and I guess technically still is—a piece of paper in the Treasury Department on this issue, but I guess you could say it is moot, pending the result of these lawsuits.

Senator. CHAFEE. It will become moot when the court decides it. It is not moot until then.

Mr. VON RAAB. As a technical matter, it is.

Senator CHAFEE. What do you mean? Do they have an injunction against you?

Mr. VON RAAB. No, but no one is acting on it and will not act on it until the court has decided, and when the court has decided——

Senator CHAFEE. You mean that nobody is acting on the petition of the trademark owners?

Mr. VON RAAB. No. It is not quite a petition. It was a notice of proposed rulemaking that was forwarded—basically a request for comment on this issue.

Senator CHAFEE. So, what you are doing now is just continuing the practice that has been going on for 30 years?

Mr. VON RAAB. That is correct.

Senator CHAFEE. And you are permitting Seiko to sell? You are not interfering with Seiko selling to K-Mart or whoever it is?

Mr. VON RAAB. That is right.

Senator CHAFEE. So, so far, the consumer is the winner.

Mr. VON RAAB. Yes.

Senator CHAFEE. Well, I will say that for a fact. It is a fact. You know, I went through in our State years and years of fair trade business—and so-called fair trade, which was obviously designed to block sales to retail outlets where the price wasn't observed. So, you are telling me that as of now, you have not interfered with these sales to the discount retailers?

Mr. VON RAAB. And will not. That is correct.

Senator CHAFEE. And if the court decides a certain way, well, then that is a different ball game.

Mr. VON RAAB. That is right.

Senator CHAFEE. Fine. Thank you very much.

Mr. VON RAAB. Thank you, Mr. Chairman.

Senator DANFORTH. Mr. Commissioner, you have been questioned as to whether or not the budget you have asked for is adequate. Now, just to set the record straight, and correct me if I am wrong on this, your 1984 appropriation is $625.9 million.

Mr. VON RAAB. That is right.

Senator DANFORTH. And you have 13,370 employees.

Mr. VON RAAB. That was our 1984 authorized level.

Senator DANFORTH. Yes.

Mr. VON RAAB. Is that the continuing resolution level as well?

Mr. RUSSELL. Yes.

Mr. VON RAAB. That is also the level at which we are under the continuing resolution.

Senator DANFORTH. And when you—the Customs Service—transmitted your request to the Treasury Department, you requested an increase from $625.9 million to $739.1 million.

Mr. VON RAAB. That is correct.

Senator DANFORTH. And you requested an increase from 13,370 people to 14,098 people?

Mr. VON RAAB. That is correct.

Senator DANFORTH. And after the Treasury Department and OMB got through with it, instead of an increase, it became a reduction to $602 million and 12,369 people.

Mr. VON RAAB. That is correct.

Senator DANFORTH. Now, this is a pretty rough question, but I think it is friendly questioning in that the people on this committee view the Customs Service as being essential and view it as being a good organization, and we want to try to work with you to try to make it better. I have had dealings with your agency, and I think it has been very, very helpful. It has been very helpful for us, for example, in trying to work out a problem with respect to the Kansas City Airport, and nobody can quarrel with any effort on the part of Government to be leaner and more efficient and modernize your procedures to try to go, where possible, from having people do menial bookkeeping routines to concentrating on more important things, and to computerizing your records. But I think it is fair to say that the reaction of the committee is one of wanting to make sure that you do have the personnel and you do have the budget in order to do an adequate job, not that we want to in any way slow you down in your effort to achieve efficiency because we don't. But we do want to make sure that you do have the means to do the job.

Mr. VON RAAB. Thank you very much.

Senator DANFORTH. Thank you, Mr. Commissioner, and thank you all for being here with us.

Next, we have Alfred E. Eckes, Chairman, U.S. International Trade Commission.

Commissioner, it is good to see you.

STATEMENT OF ALFRED E. ECKES, CHAIRMAN, U.S. INTERNATIONAL TRADE COMMISSION

Mr. ECKES. Thank you, Mr. Chairman. With me at the front table on my right is Commissioner Paula Stern, and on her right Commissioner Veronica Haggart. And on my left is Rick Arnold, who is our budget official.

You have my prepared statement. In the interests of brevity, I will offer only a brief summary of it for the record. Mr. Chairman, the International Trade Commission is under siege. Unfair trade practices like dumping and subsidies and increased competition from imports have spurred U.S. industries in unprecedented numbers to petition their Government for relief. Congress has charged the Commission with the key role of administering this Nation's trade laws, but the flood of petitions threatens to overwhelm the agency and jeopardize our ability to investigate complaints and render determinations. The budget we are proposing for fiscal year 1985 was fashioned last autumn to provide for a predicted upward trend in our workload. It calls for a 10-percent increase in staff. However, in recent weeks, we have found our budget predictions to be on the low side.

Our caseload already expanding significantly in the first quarter of 1985 ballooned in January and February, as major industries such as steel, copper, footwear, and tuna filed cases under section 201—the so-called escape clause. It is now obvious that the 10-percent staff increase will be needed immediately if we are to cope with our workload. Consequently, since submission of this fiscal year 1985 budget justification, we have prepared and submitted a supplemental request for fiscal year 1984 which would fund the 10-percent increase in staff and associated costs on a partial-year basis.

Mr. Chairman, as you know, the Commission has had a long reputation for fiscal responsibility and, as you also know, our oversight committees often consider the agency an instrument of Congress because we do a great deal of factfinding and technical work for this committee and the House Ways and Means Committee, among others. In my judgment, if we are to meet our quasi-judicial responsibilities and provide the technical assistance that you and the administration desire, we must have more resources and have them right away. It is not easy for someone like myself—who considers himself the fiscal conservative—to ask for additional funds, but with the trade deficit soaring and requests for relief climbing, I must request the resources that are necessary for the Commission to complete its responsibilities.

Mr. Chairman, that concludes my summary. I would be delighted to respond to whatever questions you have.

[Mr. Eckes' prepared statement follows:]

STATEMENT OF ALFRED E. ECKES, CHAIRMAN
UNITED STATES INTERNATIONAL TRADE COMMISSION
BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE,
COMMITTEE ON FINANCE, U.S. SENATE, MARCH 12, 1984.

Mr. Chairman and members of the Subcommittee, I am pleased to have this opportunity to discuss with you the International Trade Commission's fiscal year 1985 budget request. I am accompanied today by my Commission colleagues; and several staff members are also present.

Mr. Chairman, the ITC is under siege. Unfair trade practices--such as dumping and subsidies--and increased competition from imports have spurred U.S. industries in unprecedented numbers to petition their government for relief. As Congress has charged the Commission with a key role in implementing its trade laws, this flood of petitions has put a tremendous strain on our resources.

The budget we are proposing for FY 1985 was fashioned to provide for a predicted upward trend in our workload, and it calls for a 10 percent increase in staff. Recent weeks, however, have shown our predictions to be too conservative. Our caseload, already expanding significantly in the first quarter of FY 1984, ballooned in January and February, as major industries such as steel, copper, footwear, and tuna filed cases under section 201.

It is obvious now that the 10 percent staff increase will be needed immediately if we are to cope with our workload. Therefore, since submission of our FY 1985 budget justification, we have taken two actions: first, we prepared a supplemental request for FY 1984 which would fund the 10 percent

staff increase (and associated costs) on a partial-year basis; second, we amended the FY 1985 budget request, adding $258,000 to allow for the fact that the additional staff will be on board at the beginning of the fiscal year.

With this amendment, the Commission FY 1985 budget request totals $28,410,000. If we assume that the Commission will receive the FY 1984 supplemental for staff increases ($800,000) as well as a supplemental for cost-of-living pay increases ($464,000) the FY 1985 request is $6,372,000 more that the total funds to be provided in FY 1984.

The Commission has long had a reputation for fiscal responsibility. We would not come to you with a request of this magnitude if we did not believe the increased funding was vitally necessary. We face two extraordinary challenges in this and the coming fiscal year: we must handle our escalating workload without diminishing the quality of our research or the thoroughness of our investigations; and we must find a new home for the Commission and relocate with a minimum of disruption to our operations. The second challenge accounts for 55 percent of the increase we are requesting. I will discuss this problem further in a moment.

First, let me expand on our need for additional staff. The Commission has been operating with the same authorized staff level of 438 since 1980. During the years since 1980, our investigative caseload has mushroomed, increasing 82% between FY 1981 and FY 1983. The figures for FY 1984 are even more impressive. By the end of the first quarter of this fiscal year, our caseload (completed and pending cases) had climbed to nearly 90 percent of the caseload for all of 1981. New filings during the first quarter of FY 1984 were 130 percent more than the total during the same quarter of FY 1981.

Until December 1983, the growth in caseload involved primarily Title VII antidumping and subsidy cases and unfair trade cases under Section 337, a highly specialized area involving patents, copyrights and trademarks. Section 337 filings in particular took a big jump during the first quarter of FY 1984, increasing to 13 from the three cases filed during the first quarter of FY 1983. This rate of increase has continued, as an additional seven cases were filed during January and February for a total of 43 pending 337 cases. We have had to hire two temporary Administrative Law Judges and support staff and also make arrangements to lease additional space to cope with the added burden in just this one area.

December brought the first "escape clause" case under Section 201 for this fiscal year. This has now been joined by four others. These investigations, although they do not involve the severe time pressure that preliminary Title VII cases do, are much broader than Title VII investigations and impose much more strain on Commission resources. We must devote considerable staff effort to Section 201 investigations in FY 1984.

What does the Commission expect in FY 1985? Frankly, we expect the parade of lawyers to our docket room with petitions and complaints to continue. There has been an upturn in the U.S. economy, but the trade deficit increased to $69 billion in calendar year 1983, and the Council of Economic Advisers estimates a $110 billion deficit this year.

The strong dollar is one factor in the deteriorating trade balance. Also, many newly emerging industrial nations with low labor costs and modern industrial facilities are proving increasingly competitive in the U.S. marketplace. A conservative assumption is that each $1 billion increase in

the trade deficit costs 25,000 jobs. In the face of such losses, industries undoubtedly will continue to seek relief from foreign competition.

As you are aware, the Commission's responsibilities include more than the quasi-judicial investigations I have mentioned. One of our primary responsibilities is to provide Congress and the Executive with research data and independent expert advice to assist them in carrying out their authority to regulate trade. As trade has assumed increasing importance to the nation, Congress and the President have requested more research from the Commission under Section 332. Under way now are 332 studies on topics as varied as the industrial mold industry, the furniture industry, fabricated steel, and foreign industrial targeting. We recently received a request from Congress to look into the problem of imported goods produced by prison labor, and one from the President to assess the probable effects of a free trade area with Israel.

We also believe that it is a Commission responsibility to anticipate some of the trade problems Congress and the Executive will face and to provide research to support further policy making. During FY 1983, we self-initiated studies on such subjects as the robotics and the petrochemical industries and trade-related employment. As the Commission experiences pressure in other areas of its work, it can postpone self-initiated studies. However, 332 requests from Congress and the President must be answered in a timely fashion. We expect increased activity in the 332 areas in this and the next fiscal year.

Studies under 332 are not the only avenue through which the Commission supplies Congress and policy-making agencies with information and technical expertise. For example, during FY 1983, the Commission devoted significant

staff resources to the Harmonized Commodity Code draft conversion, submitted to the President in June, and to preparations for international trade negotiations on that Code. Over the next few years, as the conversion process goes forward, the Commission will be called upon to provide both Congress and the Executive with assistance on this complex matter. During the past year, the ITC also provided extensive assistance in developing a GATT work program in services. In FY 1985, we will continue this type of effort and our involvement in Trade Policy Staff Committee activities.

In addition, there are the periodic reports that Congress expects from the Commission as its principal trade monitor. The Commission's analysts report quarterly on the shifting patterns of exports and imports in specific commodities and on developments in East-West trade. We also periodically report on trade in motor vehicles, chemicals, steel, and other commodities as directed by Congress or the President.

To maintain high quality in the full range of Commission activities requires a dedicated and highly trained staff. As our workload has accelerated, we have tried to modernize our data and word processing capabilities to improve staff output. We also have shifted staff resources to those areas experiencing the most pressure. Now we have reached the point where the effects of the workload increase are being felt throughout the Commission, and staff shifts will no longer solve our problem.

Illustrating this pervasive effect, the dockets operation of the Office of the Secretary processed 3000 documents in the first quarter of FY 1984, compared to 8000 for all of FY 1982. Publications issued by the Commission during the first quarter of this year totaled over half the number for all of FY 1982.

The Commission can not perform the tasks set for it in FY 1984 and 1985 with the staff level allocated to it in FY 1980. Therefore, we are requesting a 10 percent staff increase (44 persons) for a total staff level of 482. In addition to salaries, new staff will require funds for office space, equipment and supplies, training, and so forth. This has been included in the $1,709,000 we are requesting for the 44 positions.

If Congress approves a supplemental appropriation for FY 1984, we will begin immediately to recruit for these positions, and would expect to have a majority of them on board the beginning of July. As you may be aware, recruiting for any of the technical, professional positions for which we do not have delegated examining authority requires an inordinate amount of time. The hurdles erected by OPM are enough to discourage the most persistent employer, but we have no choice but to persevere. The investigations we are confronting involve increasingly complex technologies. As they also involve business confidential data, we can not engage consultants to do the work. We must find and/or train in-house specialists.

The largest single increase in our FY 1985 budget request is $3,522,000 to cover costs of relocating the Commission. As you may recall, during the Commission's appearance last year before this Subcommittee, I raised the issue of the need to substantially repair the Commission's historic headquarters building. Both our House and Senate authorizing committees have been very supportive; and the General Services Administration has made, or is making certain basic repairs. Most of these are cosmetic, however, as GSA intends to transfer the building to the Smithsonian Institution in the near future.

In June 1983, the Senate passed a bill which would accomplish this transfer. The bill specified that the Commission would be consolidated in a downtown District of Columbia location jointly determined acceptable by GSA and the Chairman of the ITC. Similar legislation was pending in the House at the end of the last session; and we understand that the appropriate House Committees will take up the matter again this session in an effort to complete congressional action on the transfer before adjournment.

In the meantime, GSA has been working with us to prepare a prospectus request to the House Public Works Committee to authorize acquisition of office space for the Commission. We expect that both the bill and prospectus will be acted upon in this session and that FY 1985 will be the year the Commission moves to a new permanent headquarters building.

To summarize, the Commission is asking for a substantial funding increase in FY 1985, and additional funds in FY 1984, to support its spiraling workload. If Congress expects the Commission to vigorously administer its trade laws during this difficult period, it must give us the resources we need to accomplish our mission effectively.

This concludes my statement, Mr. Chairman. The staff and I will be pleased to answer any questions you may have.

Senator DANFORTH. I think that anyone who picks up the paper knows that you have been inundated, especially with 201 cases. Do you think that along about Labor Day those will begin letting up? That is to say, is this a seasonal boom that you are experiencing?

Mr. ECKES. The boom in escape clause cases may be a quadrennial seasonal boom. I have heard of other possible filings, but that is not the principal reason for our requesting an increase in our staff at this point in time. Indeed, the staff—if we were to gain the supplemental—would probably come aboard in late spring or early July and not be of great help to us in finishing the escape clause investigations that we have at present. Rather, what we witness is an increase in our workload all across the board. Let me just give you some figures that will help to illustrate that.

For the first quarter of this fiscal year, 13 cases were filed under section 337 which deals with certain types of unfair trade practices involving copyrights, patents, and the like. Three were filed in a similar period last year. Basically, what has happened is that the level of cases we had in 1981 and 1982 doubled in fiscal year 1983 and has increased approximately 25 percent in fiscal year 1984 already.

On top of that, we have the lag with the filings which comes from litigation. Our litigation is up about 500 percent in 2 to 3 years. It seems that everyone is appealing the Commission, not all of them successfully I am pleased to say, but that also presents an enormous load. So, just to cope, we feel we need the 44 positions and, frankly, if I had the proposal to do over again, if this were September 1983, I would probably ask for an increase of 25 percent rather than 10 percent in personnel.

Senator DANFORTH. Why don't you write us a letter and tell us what you think you need?

Mr. ECKES. We would be pleased to.

Senator DANFORTH. Do you think you can fill these positions on short order with good people?

Mr. ECKES. We have already begun the recruitment process. We have not advertised, but we are prepared to do that in short order. I think we can find people, yes.

Senator DANFORTH. Now, over the years, Mr. Commissioner it is my impression that the ITC has not been one of the most money-grabbing agencies of the Federal Government. You have had a fairly restrained policy on asking for additional personnel and asking for additional funds. Isn't that correct?

Mr. ECKES. That is correct. As I look at our annual reports, we had in the autumn of 1931, after we had concluded work on the Smoot-Haisley Tariff, 391 employees onboard; and today, we have about 420, give or take 1 or 2. As you know, we have two vacant commissioner spots, and that explains why we are not up to the authorized level. We did have an increase--I believe in fiscal year 1980—to our current authorized strength of 438. But as you know, with the changes in the trade law in the 1970's—especially with the Trade Agreements Act of 1979—there has been an enormous increase in filings as the trade lawyers have become increasingly sophisticated and aware of the nuances in the law and the potential for aiding prospective clients, and also given the international

circumstances. It is no surprise I think, that our caseload is booming.

I don't see any decline in the short run, especially in 337 cases, and perhaps in our area of factfinding studies, for which we are getting more and more requests. Some of these are rather major in terms of the scope and in terms of the commitment of resources, such as one we are currently doing on telecommunications. And I could cite several others that are major in terms of resource commitment.

Senator DANFORTH. And then, Members of Congress have been asking you for more and more information, haven't they?

Mr. ECKES. We are delighted to respond to them. Yes, the number of requests has been up substantially.

Senator DANFORTH. Tell me about the building. Is it about the same status as it was a year ago? GSA is supposed to be looking for a new place for you.

Mr. ECKES. GSA has made some cosmetic changes to the building. They are currently putting on a new roof, and they have been doing some interior painting, and we appreciate their efforts in that regard. They are not the fundamental changes that are necessary for a building of that vintage, however. We still have serious problems with plumbing and electricity and some major structural problems, such as the interior drains. Without the drains being cleaned—and that is very difficult to do without a wholesale remodeling of the building—all of the painting and changes in the roof are just going to be temporary in terms of their impact. At the present time, GSA I believe is looking for another building for us. It was mentioned in Saturday's Washington Post that they were negotiating for a building at 1301 New York Avenue, and the article also mentioned that we were one of two or three agencies that might be relocated there. I have not had any specific discussions with GSA on that location, nor have I reviewed it nor have my colleagues to see whether it might meet our specific needs, but there is action on that front. The House Public Works Committee is having a hearing later this week with respect to an authorization that might effect that change. I would hope that it could be done in fiscal year 1985, and that is why we requested the funds, so that the funds could be available if GSA is in a position to offer us an alternative building.

Senator DANFORTH. So far, you are treading water?

Mr. ECKES. That is right. Almost literally. [Laughter.]

Senator DANFORTH. If we were to visit the building again—we were there I think about a year ago——

Mr. ECKES. In the spring, I believe, Mr. Chairman.

Senator DANFORTH. Would it look about the same? Or would we be amazed at the effect of the cosmetic improvements?

Mr. ECKES. The exterior looks the same. You would probably note the new paint and not see the serious water damage in some of the interior offices. The change in the roof, I believe, is offering some improvement. My economists have not called to report that they were walking on 2 or 3 inches of water as they did one day last autumn. And so far, I have not discovered any rats in the past few weeks, but it may be for reasons that have something to do

with the season and not the changes that GSA has made in fumigation.

Senator DANFORTH. Do Commissioner Stern or Commissioner Haggart have any comments? Anything you would like to add?

Ms. STERN. I personally am delighted that Commissioner has taken the leadership in advancing the 10-percent supplemental request. I think it is unquestionably needed. We are, I think, continuing to do a very effective job, but I think the work burden is beginning to take its toll on the staff.

Ms. HAGGART. Mr. Chairman, I would simply concur with what my colleagues have said, and I would add that we appreciate the continuing support of this committee and its fine staff.

Senator DANFORTH. You don't think that people are just sort of sitting around the ITC on long coffee breaks? You have a real need for more people to do the work.

Mr. ECKES. When I come in on Saturday and Sunday, Mr. Chairman, I note a long list of our staff members who are working. Sometimes, you will find 60 to 100 names in the register over the weekends, and it is a reflection of the very heavy caseload. We have had to deploy what individual assets we have, drawing people into investigations who have never been there before, and should we be inundated with a new rush of cases, we would probably have to recruit the cleaning lady and the postman to work on investigations.

Senator DANFORTH. Let me suggest that you get together with the Finance Committee staff at your earliest convenience—you or somebody at the ITC get together with them—and decide what you think you need. As you said earlier, you think that maybe what you requested is insufficient in light of the additional caseload. This committee has a very high regard for the work of your Commission. We recognize the fact that there has been a lot of additional work, and we have taken an interest in the past in trying to get our trade laws administered in a relatively speedy fashion, and we have to give you the resources to do the job. So, if you would talk to Ted Kassinger or Len Santos, I think that would be very good.

Mr. ECKES. I will followup on that, Mr. Chairman. We appreciate your support.

Senator DANFORTH. Thank you very much.

Mr. ECKES. Thank you.

Senator DANFORTH. Next we have David Macdonald, chairman of the Joint Industry Group, U.S. Chamber of Commerce.

STATEMENT OF DAVID R. MACDONALD, CHAIRMAN, THE JOINT INDUSTRY GROUP, U.S. CHAMBER OF COMMERCE, WASHINGTON, DC

Mr. MACDONALD. My name is David Macdonald, and I am chairman of the Joint Industry Group. I have with me Alan Spurney, the director of International Business for the Electronics Industries Association, which is one of the associations that is a member of the group. The Joint Industry Group is a coalition of 65 trade associations, businesses, and law firms involved in international trade and particularly interested in customs matters. I have a full writ-

ten statement which I would file with the committee and a short summary which I would like to give.

I have seven points really. The first point. Regulations recently issued by the Customs Service for the administration of penalty issued pursuant to section 592 of the Tariff Act of 1930. We have a number of comments on these guidelines in my principal testimony, but one of the major points is that the Customs Service, after issuing these guidelines, has not made it clear in the guidelines that if negotiations take place between the Customs Service and the importer to mitigate a penalty dispute, and those negotiations fail, that the penalty amount that the Government may seek in a subsequent enforcement action against the importer cannot exceed that assessed in the original notice of penalty. In other words, the notice of penalty should be the limit beyond which the Government cannot seek further penalties if the negotiations fail.

Point No. 2. The use of enforcement quotas for evaluating the performance of customs inspectors. There are some customs districts—regions, I guess—which we understand have established programs under which a failure to initiate a specific number of enforcement actions by a customs inspector will result in an unsatisfactory rating of his or her periodic performance appraisals. Customs inspectors should be recognized and rewarded for high quality enforcement efforts. We believe, however, that they should not be required to fulfill a quota of enforcement actions as a condition precedent to satisfactory performance appraisals. Evaluation systems of this nature will encourage inspectors to find violations where none in fact exist and will certainly have a detrimental impact on clearance of passengers and cargo. Each customs inspector will be encouraged to view transactions with an eye toward his or her promotion. Our belief is that such a quota system is repugnant to fair and evenhanded law enforcement, and we would ask the committee to obtain the assurance of the Customs Service that it will not implement this kind of a quota system.

Point No. 3. Illegal seizures of imported merchandise We are presently conducting a survey of cases in which the seizures of goods have occurred, even though importation of the goods is not prohibited, and the importer is not insolvent, nor beyond the jurisdiction of the United States. As you undoubtedly know, seizures in these circumstances violate the law. We would be glad to submit the results of our survey to this committee if it is interested in it.

Point No. 4. The status of the Office of Regulation and Ruling in the Customs headquarters. Information has been received by us indicating that a study is being conducted by special agents of the U.S. Customs Service Internal Affairs Division at New York which would recommend or implement changes in Customs headquarters Office of Rulings and Regulations —[ORR] or transfer of its functions to the Office of Regional Counsel. While we respect the right of any governmental agency to so structure its organization as to be the most effective, we are concerned that in a reorganization of the type contemplated here that the administrative review processes handled by ORR which has impartially approached classification and valuation problems will be swallowed up by a prosecutorial mentality that so often permeates Customs work at the agent level. We therefore respectfully suggest that the 1985 Customs authoriza-

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tion bill preclude changes in the status of the Office of Rulings and Regulations without 90 days notice to and consultation with the authorizing committees in both Houses of Congress.

Point No. 5. Periodic entry processing and duty payment. Both the U.S. Customs Service and the U.S. importing community are being inundated—as this committee has just pointed out, I think, to the Customs Service—by the volume of paperwork required to satisfy the current procedures for processing imports and paying duties owed to them. In fiscal 1983, Customs processed almost 4 million entries from over 190,000 importers, and I am certain those figures are substantially higher today. Each of these entries required numerous supporting documents—bills of lading, invoices, packing lists, entry summaries, various certificates, et cetera. Despite this huge and growing volume of entries, the Customs Service has been obliged to process them with substantially reduced manpower and financial resources—a budgetary condition likely to continue indefinitely. The group—that is, the Joint Industry Group—recommended to Customs a new overall system which we believe would yield significant savings to Customs and to the importers. The major savings are derived from processing entries and collecting duties on a consolidated and periodic basis, rather than on the current individual shipment basis. It would permit an importer or broker to submit a single entry summary to cover all of the entries of merchandise within a customs district, ultimately without any geographical limitation during the statutory 10-day period, and we hope that would move ultimately to monthly. Import duties would then be paid once a month on a date—probably the fifteenth—that would not disrupt the present level of revenue flow to Customs. This would dramatically decrease the number of entry documents and checks that the importers would have to prepare and Customs would have to process.

Now, we propose that this system would be strictly optional so that it wouldn't be forced on anyone and would subject importers who use it to a higher standard of performance than those using the existing procedure. In short, there are about 3.3 percent of the importers who now enter 62 percent of the entries, and it is these importers that we feel would be able to take advantage of the system without loss of revenue and yet with savings in customs personnel. Customs has now conducted a very limited trial of this account concept, but we are not sure whether the trial was broad enough to prove the advantages of the entire system. We wish the committee would follow this closely and consider this as an alternative to the method of importation and payment of taxes as now takes place. It would not change, incidentally, the actual method of entry—the entry document would still be filed—and the method of entry they would go through, so that the criminal enforcement aspects of Customs would not be changed at all.

Point No. 6. Consolidation of the primary inspection function. The Joint Industry Group endorses the administration's plan to consolidate the primary inspection functions of the Customs Service and the Immigration and Naturalization Service.

Point No. 7. Public disclosure of data and import vessel manifests. In the last session, the House of Representatives twice passed a necessary and noncontroversial bill governing the information

that can be publicly disseminated from the manifests of importing vessels. This proposed legislation is a satisfactory compromise between competing interests, but it has not been passed by the Senate for reasons unrelated to the merits of the proposal. We are aware of the strong efforts made by this committee to secure Senate passage of this bill. The Joint Industry Group respectfully suggests that if the miscellaneous tariff bill—H.R. 3398—is not passed when this subcommittee marks up the Customs 1985 authorization bill, that it again include a provision substantially similar to the bill itself within the current Customs Service authorization bill.

That is the sum and substance of our rather technical recommendations, Mr. Chairman.

Senator DANFORTH. Thank you very much.

[Mr. Macdonald's prepared statement follows:]

STATEMENT OF DAVID R. MACDONALD FOR THE JOINT INDUSTRY GROUP

I am David R. Macdonald, Chairman of the Joint Industry Group. The Joint Industry Group is a coalition of sixty-five trade associations, businesses, and law firms involved in international trade and particularly interested in Customs matters.

We wish to thank you for listening to some of the matters that are of concern to our group. We acknowledge the importance of the authorization process and appreciate the conscientious efforts of this Committee to make it work. We believe that the process is good for the Customs Service, the Committee, and for us.

Some matters we would like to address are:

1. Regulations recently issued by the Customs Service for the administration of penalties issued pursuant to Section 592, Tariff Act of 1930, as amended;

2. The use of enforcement "quotas" for evaluating the performance of Customs inspectors;

3. Illegal seizures of imported merchandise;

4. The status of the Office of Regulations and Rulings in Customs Headquarters;

5. Periodic entry processing and duty payment;

6. Consolidation of primary inspection function; and

7. Public disclosure of data in import vessel manifests.

1. Regulation to Implement Section 592

On Friday, January 13, 1984, the Customs Service published its long awaited Final Rules relating to the revision of penalty guidelines under section 592 of the Tariff Act of 1930, as amended, the criteria and requirements applicable to prior disclosure of violations under that section, the limitations on and conditions for submission of supplemental petitions requesting relief from such penalties and corresponding technical changes to the Customs Regulations.

Although the Group had filed comments objecting to the adoption of penalty guidelines (the "Guidelines") as an appendix to Part 171 of the Customs Regulations, they were adopted in that form. We do not share the Customs Service's view that these important Guidelines should not be considered as formal regulations. The Guidelines remain far from perfect; however, certain limited concessions were made. We are troubled, nonetheless, by the addition of a new sentence in the paragraph preceding paragraph (A) of the Guidelines which seems to suggest that both the assessment and mitigation of penalty amounts determined in accordance with the Guidelines will not limit the penalty amount which the Government can seek in bringing a civil enforcement action pursuant to 19 U.S.C. §1592(e). It is clear from the legislative history that, if an importer does not choose to close out a penalty claim based upon a mitigated settlement, the Justice Department can initiate judicial proceedings to collect the amount set forth in the Pen-

alty Notice, even if higher than the mitigated amount. It should be made clear that the penalty amount which the Government may seek in a civil enforcement action cannot exceed that assessed in the formal notice of penalty. The Guidelines suggest otherwise.

In general, concerns expressed by the Group regarding the Customs Service's view that a prior disclosure must be in writing have been met. It remains somewhat incongruous, however, for the prior disclosure rules to be in Part 162, which deals with "Record-keeping, Inspection, Search and Seizure," as contrasted to Part 171 dealing with "Fines, Penalties and Forfeitures." Also, even though a prior disclosure is defined in §162.74(a) as one made "in writing to a District Director," the Regulations also specify in §162.74(b) that a person will be given full benefit of the prior disclosure treatment if he furnishes sufficient information and such information "need not be in writing." In our view, these concepts should be combined in a single section so as to present effective alternatives in dealing with the issue of prior disclosure. Further, we are satisfied that provisions regarding the timing of receipt of a prior disclosure have been revised to accord with the statutory concept.

The Customs Service has mandated in the Final Rules that a person concerned can file no more than a Second Supplemental Petition. Furthermore, that filing is conditioned on payment of the amounts demanded following consideration of the First Supplemental Petition. This offends elements of due process in at least two respects. First, many petitioners do not seek assistance of outside

counsel until after having filed a Petition and then a Supplement. Proper representation will be effectively limited to the sophisticated and large-scale importers. Second, the courts have now held that voluntary tenders of withheld duties may not be recovered through the filing of a Protest under section 514 of the Tariff Act. This will presumably extend also to voluntary tenders of penalty payments. Therefore, if a person concerned elects to file a Second Supplemental Petition, he has abandoned all hope for judicial consideration and review. We strongly urge that this position be modified.

Our final area of concern is traceable to what we believe will become prevailing practice. That has to do with the likelihood that penalty notices will issue routinely making the maximum statutory demands. While some concessions were made in this respect in the final text of the Guidelines, the Customs Service has required the District Director to take into account all controlling factors but has then admonished "in no case shall the assessed penalty exceed the statutory ceilings prescribed in section 592." The focus is clearly toward the statutory ceilings and not on a fair assessment based on all relevant factors.

2. Enforcement quotas

We have been reliably advised that some Customs Regions have established programs under which failure to initiate a specific number of enforcement actions by a Customs Inspector will result in an unsatisfactory rating in his or her periodic performance appraisals. Customs Inspectors should be recognized and rewarded for high quality enforcement efforts. However, they should not be required to fulfill a given "quota" of enforcement actions as a condition precedent to satisfactory performance appraisals or promotions. Evaluation systems of this nature will encourage inspectors to find violations where none, in fact exist. It will certainly have a detrimental impact on the clearance of passengers and cargo. Each Customs Inspector will be encouraged to view transactions (passenger or cargo) with an eye toward his or her promotion. Such a quota system is repugnant to fair and even-handed law enforcement.

3. Illegal seizures

We understand that the incidence of seizures which are contrary to the provisions of Section 592(c)(5) of the Tariff Act is increasing. Incidences of the seizure of goods have occurred even though importation of the goods was not prohibited and the importer was neither insolvent nor beyond the jurisdiction of the United States. Such seizures contradicted the very letter of the Customs Procedural Reform and Simplification Act of 1978 (Public Law 95-410). If you are interested, our group will conduct a survey and furnish the results to the Committee.

4. The Office of Regulations and Rulings

Information has been received indicating that a study is being conducted by Special Agents of the U.S. Customs Service Internal Affairs Division at New York which would recommend or implement changes in the Customs Headquarters Office of Regulations & Rulings (ORR), or transfer of its functions to the Office of Regional Counsel.

It is alleged this study was undertaken because of dissatisfaction expressed by field officers of the Customs Service with decisions of ORR in reducing penalties assessed in the field. Recent inquiry has reflected that the study may have been expanded at the direction of the Deputy Commissioner of Customs to include an investigation to determine whether Customs Headquarters has been over-lenient not only on penalties, but on valuation and classification matters as well.

The study and proposal are matters of concern to the international trade community. The Office of Regulations and Rulings was intended by Congress to serve a quasi-judicial role in penalty matters to afford an unbiased review of penalties imposed by field officers and to assure a disposition of penalties in accordance with the law as amended by the Customs Procedural Reform Act of 1978, Public Law 95-410. The international trade community is concerned that the atmosphere of enforcement pervading the Customs service, voiced by the

Commissioner in the Camp Hoover Memorandum and other public statements, will impinge upon the independence of ORR to fulfill its proper quasi-judicial role. If investigated for "over-leniency," the resulting pressures of "big brother" looking over the shoulder of ORR attorneys attempting to dispose of penalty, value and classification matters without bias and in accordance with the law, is likely to make their decisions less objective and less fair.

Further it has been the usual practice of local Customs officials, sanctioned by Headquarters, to resolve doubts in favor of "protecting the revenue" (i.e. higher rate of duty, or higher value). On administrative review, however, Headquarters has, at least in theory, attempted to resolve classification and value questions in accordance with existing law. Any change in policy requiring an aggressive support of the "Customs position" would be contrary to fairness and equity, resulting in greatly worsened public relations with the entire import community, substantially increased litigation, and higher consumer costs for imported products.

Such a policy with respect to penalties assessed in the field would be particularly objectionable. As the record will show, local agents tend to compute penalties on the highest possible basis, ignoring mitigating factors and often greatly overstating the value of the merchandise involved. The absence of a meaningful review would make the local agent the prosecutor, judge and jury.

The ORR staff has already been reduced substantially by size, budget restraints, and resignations. A proposal to disperse these officials from Customs Headquarters to the Regional Counsel's offices would greatly diminish efforts to achieve and maintain uniformity of treatment of duty assessments on imports, required under the Constitution.

There is a proper need of the public to obtain an impartial review of legal problems by the staff of qualified attorneys in ORR at USCS HQ. Regional Counsel are the attorneys for the Regional Commissioner and Chief Counsel in Washington are the attorneys for the Commissioner of Customs. The function of these offices on behalf of the Service differ materially from the function of ORR to rule impartially on legal questions presented, with respect to imported products.

We respectfully suggest that the 1985 Customs Authorization Bill preclude changes in the status of the Office of Regulations and Rulings without 90 days prior notice to and consultation with the authorizing Committees in both Houses of Congress.

5. Periodic Entry Processing and Duty Payment

Both the U.S. Customs Service and the U.S. importing community are being inundated by the volume of paperwork required to satisfy the current procedures for processing imports and paying the duties owed on them. In Fiscal 1982, Customs processed almost four million entries from over 190,000 importers. I'm certain those figures are substantially higher today. Each of these entries required numerous supporting documents -- bills of lading, invoices, packing lists, entry summaries, various certificates, etc. Despite this huge and growing volume of entries, the Customs Service has been obliged to process them with substantially reduced manpower and financial resources, a budgetary condition likely to continue indefinitely.

The need to institute changes in procedures to manage this enormous flow of paperwork is recognized by Customs and importers alike. Customs has responded by increasing its automated information processing capability and by establishing alternative approaches such as the bypass program, Automated Broker Interface and the Model Ports Program. The Joint Industry Group believes that these are positive steps but insufficient to achieve the magnitude of efficiency improvement needed to cope effectively with the problem.

In early 1982, the Group recommended to Customs a new overall system which we believe would yield significant savings to Customs and importers. The major savings are derived from processing entries and collecting duties on a consolidated and periodic basis

rather than on the current individual shipment basis. It would permit an importer or broker to submit a single entry summary to cover all entries of merchandise within a Customs district (ultimately without any geographic limitation) during the statutory ten-day period (ultimately monthly). Import duties would be paid once a month on a date (probably the 15th of the month) that would not disrupt the present level of revenue flow to Customs. This would dramatically decrease the number of entry documents and checks that importers would have to prepare and Customs would have to process.

Further efficiencies from our proposal would result from a centralization of processing of entry summaries. Those importers electing to utilize this procedure would be established as accounts. All processing of entry summaries, questions regarding classification and appraisement, and liquidations for merchandise imported by the account would be done by an account import specialist or team of specialists. The account approach would allow Customs to organize its processing of entry summaries by importer as well as by commodity and not by where the importation happened to be made. Customs' analysis of importations shows that a mere 3.3 percent of all importers file 62.2 percent of all entries. Thus, we believe that a more rational way of processing the entries of these approximately 5,000 major importers would produce significant productivity improvements and allow Customs to provide smaller or infrequent importers more specialized treatment. Also, this approach to centralized processing can be accomplished without redeploying any of Customs' personnel.

Since our proposal does not change in any way the initial steps in securing the release of merchandise and the filing of the entry, it does not affect Customs' inspection and enforcement responsibilities or the timely collection of import statistics.

Our proposal would establish an optional system designed to deal effectively with large volumes of entries by major importers. As such, it would impose on the importers that elect to use it a higher standard of performance than for those using the existing procedure. This higher standard would be validated by Customs through an expanded and more sophisticated use of audits. As a voluntary and alternative procedure, no importer would feel threatened or burdened by it and Customs would be able to deny its use by those importers who fail to perform to the higher standard.

In response to our proposal, the Customs Service conducted a test of a very limited application of the account concept. For two volunteer test companies, 3M and Volkswagen of America, Customs assigned an account import specialist who served in an advisory capacity to other Customs officials with regard to classification and appraisement of the account companies' imports. The account import specialists were the principal contacts with and for the companies but were given no further responsibilities to process their entries. The test, which ran from February through December of last year, was important as a first step but was so modest that it cannot be considered a valid indicator of the potential for significant productivity improvements which we are confident would

be achieved if our overall recommendation were implemented. We are, at Customs' invitation, participating in their evaluation of the test and hope that the Service will now agree to a more comprehensive and meaningful test of our total concept.

Contained in my complete statement is a copy of the periodic merchandise entry and duty payment proposal which we have submitted to Customs.

6. Consolidation of Primary Inspection Functions

The Joint Industry Group endorses the Administration's plan to consolidate the primary inspection functions of the Customs Service and the Immigration and Naturalization Service. We are prepared to cooperate with the Congress and the Administration to achieve a prompt and efficient implementation of this plan. We have communicated to Customs and Immigration our hope that they will make every effort during implementation to minimize disruptions to the timely clearance of cargo, particularly at land border crossings where the primary inspection responsibility for cargo will shift from Customs to Immigration

7. Public Disclosure of Data in Import Vessel Manifests

In the last session the House of Representatives twice passed a necessary and non-controversial bill governing the information that can be publicly disseminated from the manifests of importing vessels. This proposed legislation is a satisfactory compromise between competing interests. On the one hand, it meets the legitimate needs of those that seek data from these documents to develop models of competitive activity, develop freight services and expand port facilities. On the other hand, it also protects the needs of those businesses which can be competitively harmed if data is disclosed that identifies them and specific information about raw materials, equipment and products they import. This compromise is, in effect, the mirror image of the Shippers Export Declaration Confidentiality Act of 1980.

Senator Heinz proposal was twice reported by the Senate Finance Committee, and on the same vehicles as passed the House. These were the 1984 Customs Service Authorization Bill and the Miscellaneous Tariff Bill H.R.3398. Unfortunately, neither bill reached the Senate Floor for reasons unrelated to this proposal. The first of these bills has been made irrelevant with the passage of time; we are aware of the strong efforts being made by this Committee to secure Senate passage of the second.

Before the litigation to secure public disclosure of data in import vessel manifests, including information that would reveal

business secrets of U.S. manufacturing firms to foreign competitors, has been settled. However all concerned -- Twin Coast Newspapers who sell this type of information, the U.S. Customs Service and the business community -- support passage of this bill because it meets needs not resolved in the settlement to the litigation.

Consequently, the Joint Industry Group respectfully suggests that if the Miscellaneous Tariff Bill H.R.3398 has not passed the Senate when this Subcommittee marks up Customs' 1985 Authorization Bill that it again include it within the current Customs Service Authorization Bill.

Thank you for the opportunity to testify and I will be glad to answer any questions you may have.

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THE JOINT INDUSTRY GROUP
U.S. CHAMBER OF COMMERCE
WASHINGTON, D.C.

DAVID R. MACDONALD, CHAIRMAN
815 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20006

March 14, 1984

Mr. Roderick A. DeArment
Chief Counsel
Committee on Finance
United States Senate
Room SD-219
Washington, DC 20510

Dear Mr. DeArment:

On Monday, March 12th, David Macdonald testified on behalf of the Joint Industry Group at the International Trade Subcommittee's authorization hearing on the U.S. Customs Service. In Mr. Macdonald's written statement was a reference to an attachment which was not actually included with the statement. The referenced document, entitled "Periodic Merchandise Entry and Duty Payment System," is attached to this letter. We request that this document be included as part of the total written statement of Mr. Macdonald in the hearing record.

Thank you very much for your consideration.

Sincerely,

R Watkins

Robert Watkins
Chairman
Customs Improvements Committee

RW/bb
Attachment
cc: David Macdonald
David Elliott
Judi Levy

Periodic Merchandise Entry and Duty Payment System

1. The proposed system would supplement and not replace the existing system of merchandise entry and duty payment. It would be utilized only by those importers and brokers electing to do so.

   Comment: Lack of optionality was a key private sector concern about DABA. Customs' approval would be required, with emphasis on record-keeping by the importer/broker.

2. For each importer/broker electing to use the system, Customs would assign an account and an account import specialist who would be responsible for the liquidation of all entries made under the account.

   Comment: The account import specialist will provide an interconnection between importers and the national advisory import specialists. Port-to-port uniformity and, as a consequence, the accuracy of import statistics would be improved. Costs to Customs and importers from lack of uniformity would be reduced.

3. To secure release of imported merchandise, the importer/broker would submit entries as at present. Customs would perform its various inspection and other regulatory functions without necessarily changing the present procedure.

   Comment: Current entry procedures need not be changed. Customs inspection, regulatory and statistics-gathering functions would be unimpaired by this proposal.

4a. Within the required ten-day period, the importer/broker would submit pro forma entry summaries covering entries made under the account. The pro forma summaries may consolidate individual entries made within a single district. They would simply provide sufficient data to allow the collection of accurate and timely import statistics and advise the account import specialist of situations requiring additional review with the importer/broker. Supporting documentation would have to be maintained in the files of the importer/broker.

   Comment: Under this option any information and statistics available to Customs now within ten working days would continue to be available. The pro forma summaries would substitute commercial documentation for Customs Form 7501. The same data would be submitted but without incurring the additional administrative costs of preparing Form 7501. The accuracy

of these commercial documents is demonstrated by their almost exclusive use in the internal inventory, accounting and other records management activities of importing companies. Further confirmation and quality control monitoring of this accuracy will be available to Customs through an expanded audit function addressed in Item 7 below.

OR

4b. On a monthly basis, the importer/broker would submit to the account import specialist consolidated pro forma entry summaries via each district for the goods imported through that district. The pro forma summaries would simply provide sufficient data to allow the collection of accurate and timely import statistics and advise the account import specialist of situations requiring additional review with the importer/broker. Supporting documentation would have to be maintained in the files of the importer/broker.

Comment: This approach is preferred by some as providing efficiency improvements to both Customs and importers in the processing of imports and placing Customs' system on a cycle more compatible with usual business practice. This step could require a statutory change before it could be implemented.

OR

4c. On a monthly basis, the importer/broker would submit to the account import specialist a pro forma entry summary covering all entries made under the account irrespective of port of entry. The pro forma summary would simply provide sufficient data to allow the collection of accurate and timely import statistics and advise the account import specialist of situations requiring additional review with the importer/broker. Supporting documentation would have to be maintained in the files of the importer/broker.

Comment: This approach is preferred by some as providing even greater efficiency improvements to both Customs and importers. The current geographical limitation on entry summary filings is merely an arbitrary and historical administrative and political decision which impedes significant efficiency improvements for Customs and importers alike. This step would appear to require statutory change.

5. By the last day of each month, the importer/broker would deposit estimated duties for that month. The amount deposited would be either the same as the actual amount owed the preceding month or an estimate of the expected duty liability for that month. If the latter option is

used, the importer/broker would be liable for an interest penalty if the estimate is less than 80 percent of the amount that is subsequently determined to be the actual duty owed. At the same time, the importer/broker would submit payment or request for credit for any difference between the estimated duties paid during previous months and the amount actually owed during those months.

Comment: This provision would bring Customs' revenue collection procedures into line with long-established business practice -- monthly billings and payments. If the cash flow effect of this change is considered to be too significant -- although except for the one-time effect when initiated we believe such effects would be minimal -- an acceptable compromise would be to deposit the estimated duties for the month by the 15th of that month. This estimate/interest penalty approach would result in a more even revenue flow to Customs and improve efficiency through a dramatic reduction in checks to be processed and through a more streamlined processing of overages and underages.

6. The account import specialist would either liquidate entries made under the account or would designate them for audit. Those designated for audit would be liquidated as a result of the audit or as provided by existing regulations.

Comment: The liquidation procedure would not materially be changed by this proposal. The liquidations would be made by the individual most knowledgeable about the transactions -- the account import specialist -- thus promoting efficiency and uniformity.

7. When considered appropriate, Customs would audit the importers/brokers using the system to assure its integrity. Importers/brokers would have all necessary books and records covering all importations under the system available at their place of business for the audit.

Comment: An expanded and more sophisticated audit function by Customs is crucial to the effective implementation of this proposal. An audit approach is more compatible with normal business accounting and control procedures and has proven to be quite effective in enforcing Internal Revenue Service procedures. It is certainly more reliable and effective than a reliance on physical inspection and isolated document review. Further, major or repeated deficiencies revealed by audit would be cause for discontinuing the use of this procedure by the importer/broker.

Senator DANFORTH. Can some of these recommendations be accomplished by administrative action without Congress doing anything?

Mr. MACDONALD. Yes. A number of them, I think, are directed toward oversight functions of this committee. They could be corrected by the agency itself, and do not require legislation, but we did want to bring them to this committee's attention, in its oversight capacity.

Senator DANFORTH. Have you gone over these recommendations with the Customs Service?

Mr. MACDONALD. Yes, we have.

Senator DANFORTH. What has been their reaction?

Mr. MACDONALD. Well, it is hard to summarize on all seven. Some, we have no reaction particularly at all. Others, we are still awaiting. The biggest one—the periodic entry system—is, if I am not mistaken, in the process of moving up through the customs bureaucracy to the customs management with the actual recommendation not clear to us at this time—whether they will recommend further expansion of periodic entry or whether they will say no it is not worth it. So, that is a typical situation, I think.

Senator DANFORTH. I have not had an opportunity to focus on the recommendations that you have made, but they will certainly receive the attention of the staff here of the Finance Committee. Do you have any view of the recommendation of the Grace Commission that those who use customs services should pay a user fee? That this would help finance the Customs Service?

Mr. MACDONALD. I think that would be counterproductive. It would be like raising tariffs essentially, and would therefore choke off just that amount of trade. I don't think there is any other way to look at it. There is a provision in GATT that does allow you to charge some reasonable fee for services performed. I am not sure that it would go as far as the Commission recommendation.

Senator DANFORTH. Thank you very much.

Mr. MACDONALD. Thank you.

Senator DANFORTH. I have been told that Mr. Landry is not here. The next witness would then be Robert M. Tobias.

Mr. GORSON. Mr. Chairman, I am here for Mr. Landry.

Senator DANFORTH. You are here for Mr. Landry? All right, sir.

STATEMENT OF JAMES R. GORSON, DIRECTOR OF FACILITATION, AIR TRANSPORT ASSOCIATION OF AMERICA, WASHINGTON, DC

Mr. GORSON. Mr. Landry was unavoidably detained, and he asked me to summarize his comments for him, Mr. Chairman.

My name is James R. Gorson, and I am director of facilitation of the Air Transport Association of America, which represents most of the scheduled airlines of the United States. Seventeen of our member airlines provide scheduled service between the United States and more than 70 countries. We appreciate this opportunity to appear before the subcommittee to discuss the fiscal year 1985 budget authorization for the U.S. Customs Service. Our statement will be brief, focusing on four areas of concern.

First and foremost, we wish to thank you, Mr. Chairman, and the Subcommittee on International Trade for your leadership in

connection with the recent decision to consolidate inspection agency primary responsibilities at all U.S. gateway airports, and at the nine preclearance airports abroad. Now that the Customs Service has been designated as the agency to assume primary inspection responsibility at these airports, we urge that a one-stop passenger inspection program be adopted promptly in an orderly fashion. Specifically, Mr. Chairman, we ask the support of the committee to effect a customs consolidated one-stop inspection at New Orleans prior to May 12, the commencement date of the Louisiana World's Fair. Also, Miami and St. Louis international airports should be given an immediate opportunity to provide a one-stop inspection procedure at these busy international U.S. air passenger terminals. In order to cope with the international passenger saturation at New York's Kennedy international arrival building, Eastern Airlines should be permitted to conduct a one-stop customs inspection facility at that airline's satellite terminal. The proposed $70 million customs facility at the Eastern terminal will be built at no cost to Customs and in accordance with the specifications and dictates of that agency. Attached to our statement is a list of other airports where a one-stop inspection procedure could be implemented, if Customs were to be permitted to provide primary inspection responsibilities.

Improved efficiency of customs cargo processing must also continue. We are pleased to note in this regard that plans are underway by the Port Authorities of the Kennedy and Miami airports to computerize the processing of international air cargo. While the Customs Service is passively participating in these programs, but that agency has not allocated funds to support it even though Customs will be a major beneficiary. We urge this committee to authorize sufficient funding commensurate with the share of benefits that Customs will derive and to request Customs to assume a major—rather a more active—role in this regard.

And there is concern to United States-Canada transborder airlines and to our friends in the Canadian Government of the refusal of the U.S. Customs Service to allow a test of a concept—called down-stream duty free—whereby a duty-free sales facility occupies an area beyond the customs baggage inspection counters. The Government of Canada has gone to great lengths to design a plan which complies with all of the enforcement requirements of U.S. Customs. We urge that this test be allowed to go forward, at the end of which U.S. Customs will make the determination whether or not it is feasible.

In conclusion, we urge the committee to provide authorization for adequate customs inspector personnel at preclearance and U.S. gateway airports by restoring the $9.3 million inspection service budget costs, to authorize funds to cover Customs' full participation in the leadership in a computerized air cargo control program at Miami and Kennedy airports and to direct Customs to withdraw its opposition to the cost-free testing of a down-stream duty-free arrangement at preclearance airports in Canada and to direct Customs to proceed, as the agency with the primary responsibility, of consolidated one-stop inspection procedure at selected airports. Mr. Chairman, it is worth noting here that U.S. airlines as good citizens strongly support U.S. customs law enforcement measures.

However, in order for enforcement to be effective, Customs must have sufficient resources, including adequate numbers of customs inspectors. The administration's proposed cut of 415 inspectors will do exactly the opposite and could impact disastrously both on the customs security and enforcement issues as well as on the facilitation of international travel and trade.

I have concluded my comments. I will be glad to answer questions.

Senator DANFORTH. Thank you, sir.

[Mr. Landry's prepared statement follows:]

12 March 1984

James E. Landry
Senior Vice President and
General Counsel
Air Transport Association of America
1709 New York Avenue, N.W.
Washington, D.C. 20006
Telephone: (202) 626-4156

Summary Statement
Air Transport Association of America
On the FY 1985
U.S. Customs Service Authorization

The Air Transport Association, which represents most of the U.S. scheduled air carriers, is vitally interested in the inspection operations of the U.S. Customs Service at international airports.

Congestion from inadequate U.S. Customs staffing at gateway airports has caused delays and public inconvenience in the past. Customs inspector staffing complements need to be consistent with the statutory responsibilities and obligations of the Customs Service. They also must be consistent with our national policies to expand international air commerce and to otherwise facilitate visitor and returning citizen arrivals to the United States.

If proposed budget cuts necessitate Customs inspector staffing reductions, then the Customs inspection process itself must be streamlined on a comparable basis. If large-scale changes in the inspection process, such as the consolidation of Customs and Immigration functions, are delayed or postponed, then adequate Customs staffing must be authorized; otherwise serious public inconvenience will escalate, our airports will become more congested, and the international air transport system will become less efficient and more expensive.

We ask that funding be authorized to avoid the Administration's requested reduction of 415 Customs inspectors at U.S. ports of entry, and that funding also be authorized to cover Customs full participation in a computerized international air cargo program at the Miami and Kennedy airports; that Customs be directed to withdraw its opposition to a cost-free testing of a "downstream" duty-free arrangement at a pre-clearance airport in Canada; and that Customs be directed to proceed -- as the agency with primary responsibilities -- with a consolidated one-stop inspection procedure at selected airports, namely, at Miami, Tampa, New Orleans and the Eastern satellite terminal at the Kennedy International airport.

STATEMENT OF JAMES E. LANDRY

AIR TRANSPORT ASSOCIATION OF AMERICA

My name is James E. Landry. I am Senior Vice President and General Counsel for the Air Transport Association of America, which represents most of the scheduled airlines of the United States. Seventeen of our member airlines provide regularly scheduled air service between the United States and more than 70 countries.

I am accompanied by James R. Gorson, Director - Facilitation, who coordinates airline industry efforts in the facilitation of international air travel and trade, and who works directly with the federal inspection agencies and other appropriate departments of the U.S. government in this regard.

We appreciate the opportunity to appear before the Subcommittee to discuss the FY 1985 budget authorization for the U.S. Customs Service. Our statement will be brief; focusing on four areas of concern.

First and foremost, we wish to thank the Chairman and the Subcommittee on International Trade for their leadership in connection with the recent decision to consolidate inspection agency primary responsibilities at all U.S. gateway airports and at the nine preclearance airports in Canada, Bermuda and the Bahamas. Now that the Customs Service has been designated as the agency to assume the primary inspection responsibility at these airports, we urge that a one-stop passenger inspection program be adopted promptly in an orderly fashion.

Specifically, we ask the support of the Committee to effect a Customs consolidated one-stop inspection at New Orleans prior to the May 12 commencement of the Louisiana World Exhibition. Also, Miami International Airport should be given an immediate opportunity to provide a one-stop inspection procedure at this second busiest international U.S. air passenger terminal. And, since the Tampa airport terminal inspection facility readily lends itself to a one-stop configuration, the procedure should be allowed to start there now, with Customs assuming primary inspection responsibilities. Finally, in order to cope with the international passenger traffic saturation at New York's Kennedy international arrival building, Eastern Airlines should be permitted to construct a one-stop Customs inspection facility at that airline's satellite terminal. The proposed multi-million dollar Customs

facility at the Eastern terminal will be built at no cost to the government; and in accordance with the specifications and dictates of the Customs Service. We have attached to our statement a list of other airports where a one-stop inspection procedure could be implemented, and where Customs should be permitted to provide the primary inspection responsibilities.

At each and every airport terminal where one-stop inspection is authorized to go forward, the red/green door dual channel passenger exiting processing procedure should be simultaneously instituted. The red/green door procedure, or a modified form of it, has now proven itself at Boston, Chicago (O'Hare), Houston, Miami, Newark, San Juan, Tampa, and at four satellite terminals and the international arrivals building at Kennedy Airport. It was also just recently introduced at Philadelphia's International Airport. The red/green door procedure facilitates Customs passenger processing while strengthening Customs enforcement capabilities.

Improved efficiencies in Customs cargo processing must also continue. In this regard we are pleased to note that plans are underway by the port authorities at Kennedy and Miami airports to computerize the processing of international air cargo. While the Customs Service is participating in these programs, that agency has not allocated funds to support it even though Customs will be a major beneficiary. We urge this Committee to authorize sufficient funding commensurate

to the share of benefits which Customs will derive. At overseas airports such as London and Tokyo, Customs in those countries has allocated funds for the introduction and support of computerized international air cargo processing, and the same in all fairness should be done by U.S. Customs in this country.

An issue of concern to U.S.-Canada transborder airlines and to our friends in the Canadian Government is the refusal of the U.S. Customs Service to allow a test of a concept, called "down-stream" duty-free, whereby a duty-free sales facility occupies an area beyond the Customs baggage inspection counters. The Government of Canada has gone to great lengths to design a plan in this regard which complies with all of the enforcement requirements of U. S. Customs. The test will be conducted at no cost to U. S. Customs and can be tried at a preclearance location in Canada chosen by U.S. Customs. Since revenues derived from the sales of duty-free stores help to pay for inspection facilities at airports, we urge this Committee to request Customs to allow such a test, at the end of which U.S. Customs would make the final determination as to the feasibility of the "down-stream" duty-free arrangement.

Although we are concerned by the $9.3 million FY 1985 cut in the Customs inspection and control program, with a proposed reduction of over four hundred inspector positions, we were nevertheless pleased to read in the President's FY 1985 budget

message of the need to streamline Federal Government management systems and to otherwise improve the efficiency of the Government. The consolidation of inspection agency functions urged by this Committee over the years and now formally proposed by the Administration -- by assigning primary inspection responsibilities at all U.S. gateway and preclearance airports to Customs -- will greatly streamline and improve the passenger inspection processing system at our airports and will do so at reduced costs to the Government.

In conclusion we urge the Committee to provide authorization for adequate Customs inspector personnel at preclearance and U.S. gateway airports by restoring budget cuts proposed by the Administration; to authorize funds to cover Customs' full participation in a computerized international air cargo program at the Miami and Kennedy airports; to direct Customs to withdraw its opposition to a cost-free testing of a "downstream" duty-free arrangement at a preclearance airport in Canada; and to direct Customs to proceed -- as the agency with primary responsibilities -- with a consolidated one-stop inspection procedure at selected airports, namely, at Miami, Tampa, New Orleans and the Eastern satellite terminal at the Kennedy International airport.

* * *

AIRPORT FEDERAL INSPECTION SERVICES (FIS) FACILITIES
(as of 6 February 1984)

AIRPORT (& TERMINALS)	FIS TERMINAL FLOORS	PROCESSING TYPE	SPECIAL TERMINAL FEATURES	COMPLETION DATE
Anchorage	One	One-Stop, after baggage claim		
Atlanta	One	One-Stop, after baggage claim		
*Baltimore	One	Two-Stop		
Boston	Two	Two-Stop	Red/Green, Citizen By-Pass	Jan. 1984
Chicago (O'Hare)	[illegible]	Two-Stop	Red/Green, Citizen By-Pass	1982
Cleveland	[illegible]ne	Two-Stop	Citizen By-Pass	
Dallas (American)	One	One-Stop, after baggage claim		Jun. 1983
Dallas (Braniff-Planned 1984)	Two	Two-Stop	One-Stop, Dual Channel, Citizen By-Pass	
Denver	One	One-Stop, after baggage claim		Jun. 83
Detroit	Two	Two-Stop	Citizen By-Pass	
*Dulles	One	Two-Stop	Citizen By-Pass	
Ft. Lauderdale	One	Planning One-Stop (1985)	Citizen By-Pass	
*Honolulu	Two	Two-Stop	Citizen By-Pass	
Houston (Terminal B)	One	One-Stop, before baggage claim	Red/Green, Dual Channel	Aug. 1982
Houston (Terminal C)	One	One-Stop, before baggage claim	Red/Green, Dual Channel	Feb. 1984
J.F. Kennedy (International Arrivals Building)	One	Two-Stop	Red/Green, Citizen By-Pass	May 1983
J.F. Kennedy, TWA	One	Two-Stop	Red/Green, Citizen By-Pass	May 1983
J.F. Kennedy, Pan Am	One	Two-Stop	Red/Green, Citizen By-Pass	May 1983
J.F. Kennedy, British	One	Two-Stop	Red/Green, Citizen By-Pass	May 1983
J.F. Kennedy, American	Two	Two-Stop	Red/Green, Citizen By-Pass	

AIRPORT FEDERAL INSPECTION SERVICES (FIS) FACILITIES
(as of 6 February 1984)

AIRPORT (& TERMINALS)	FIS TERMINAL FLOORS	PROCESSING TYPE	SPECIAL TERMINAL FEATURES	COMPLETION DATE
Kansas City	One	Two-Stop		
Los Angeles, bubble	One	One-Stop, after baggage claim		Aug. 1984
Los Angeles, West Terminal	One	One-Stop, before baggage claim		Jun. 1984
Los Angeles #2	Two	One-Stop, before baggage claim	"ASIST"	
Los Angeles #5	Two	Two-Stop,	Citizen By-Pass	
Miami	Two	Two-Stop	Red/Green, Citizen By-Pass	
Minneapolis	One	One-Stop, after baggage claim		
New Orleans	Two	Planning One-Stop 1984		
Orlando	One	Planning One-Stop 1984		
Philadelphia	One	Two-Stop	Red/Green	Spring 1984
Portland	One	Two-Stop		
San Antonio	One	Two-Stop		
San Francisco	One	One-Stop, after baggage claim	Red/Green, Citizen By-Pass	Aug. 1984
San Juan	Two	Two-Stop	Red/Green, Citizen By-Pass	
*Seattle	Two	Two-Stop	Citizen By-Pass	
St. Louis	One	Two-Stop		
Tampa	One	Two-Stop	Red/Green, Citizen By-Pass	1983

ABBREVIATIONS

Red/Green ... Red/Green Door Dual Channel Customs/Agriculture Passenger Inspection Exit Procedure.
FIS ..... Federal Inspection Services.
ASIST ..... Accelerating Specialized Inspection System Test.
* ..... Previously planned Red/Green Door with Citizen By-Pass prior to the President's Cabinet Council Management and Administration decision to consolidate Immigration and Customs functions. All other plans to convert to Red/Green Customs areas are now "on hold" pending resolution of Customs/Immigration consolidation.

Senator DANFORTH. Could you just describe, for my benefit, the difference between one-stop inspection and the traditional form of inspection? If I were using the service, what would I notice is different?

Mr. GORSON. When you get off the airplane, on the one-stop procedure you would go through primary inspection. Eighty percent of the passengers then would be free to leave the airport after they had picked up their baggage. Under two-stop, you go through primary immigration and then pick up your baggage and go through customs.

Senator DANFORTH. So, right now, if I come into Dulles, the first thing I do is to go through immigration. That is when you go into a little booth. And then, after you go through the booth, you claim your bag and then you go through customs. This would change that in that you would go through the immigration booth and then you would pick up your bag and go straight to the taxi?

Mr. GORSON. That is correct. Essentially, the immigration booth would also be manned by Customs. However, at Dulles they do have what they call citizen bypass, so it is a one-stop for U.S. citizens but not for visitors.

Senator DANFORTH. Yes, but that is the basic concept. That is, you don't have to get your bags and then go through the customs?

Mr. GORSON. Eighty percent or more would not unless they had duty or other problems.

Senator DANFORTH. Good deal. Thank you very much, sir. We appreciate your testimony.

Mr. GORSON. Thank you, Mr. Chairman.

Senator DANFORTH. And finally, Mr. Robert Tobias, president, National Treasury Employees Union.

STATEMENT OF ROBERT M. TOBIAS, PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION, WASHINGTON, DC

Mr. TOBIAS. Good afternoon. Mr. Chairman, I am Robert Tobias, national president of the National Treasury Employees Union. NTU is the exclusive representative of over 120,000 active and retired Federal workers including all employees of the U.S. Customs Service worldwide. With me is Paul Newton, our director of legislation, and we are pleased to appear before you to discuss the fiscal year 1985 authorization of the appropriation for the Customs Service.

As the subcommittee is aware, the principal mission of the Customs Service is to intercept narcotics traffic and other contraband crossing our borders and monitor the flow of travelers and merchandise through U.S. ports of entry.

In addition, Customs is a key revenue-producing agency, adding over $10 million a year to the U.S. Treasury. Each of these activities—border enforcement, revenue collection, and tariff and trade regulation—is vital to the well-being of our Nation, and in each of these areas, Customs will face greater challenges during the coming year than at any time in its 200-year history. International trade and tourism—an essential element in our economic recovery—will continue to grow and place further strain on Customs' ability to cope with congestion at our Nation's air, land, and sea-

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ports in the country. Increasing commercial fraud to undermine the recovery of basic industries such as steel, electronics, and textiles. The drug war—fought daily on the streets of our cities and in our high schools—is still escalating. And finally, as international tensions worsen, a strategic interest in halting the flow of critical technology to unfriendly nations will become an important national security issue. So, there is an obvious need to provide adequate funding for Customs to meet these challenges. The Reagan administration has, once again, undersold Customs' fiscal requirements and overpromised the anticipated results of so-called improved enforcement and inspection techniques. This year's budget request of $602 million and 12,447 positions is $14 million and over 950 positions less than Congress provided in fiscal year 1984 continuing appropriations resolution passed last November. The continuing appropriations resolution itself contained a 400-position cut from Customs' 1983 operating level. As a result, Customs currently has in place a freeze on hiring. Every day that passes there are fewer and fewer customs employees employed by the U.S. Customs Service since no one is being replaced. Based on Customs' own figures, the administration's budget request is $56 million short of current services budget, and in the strongest terms possible, we recommend that you authorize this additional $56 million to restore the cuts in this year's budget and that you add at least 650 new positions to the current work force at a cost of $29 million.

We were pleased to learn today, Mr. Chairman, that the U.S. Customs Service requested 750 additional positions when it sent over its request to OMB, and therefore we believe that what we are urging on the Congress is, in effect, 100 fewer positions than the U.S. Customs Service thought they needed to operate their program. The reason we are supporting the increase in Customs' personnel is simply that during the past 10 years, while the number of passengers and the volume of cargo entering the United States has nearly doubled, customs personnel ceilings remained essentially static. The fact is that there are fewer inspectors and import specialists onboard today than there were in 1975. The sad truth is that narcotics smuggling continues to grow at an alarming rate and it has led to an epidemic level of crime in our communities. It has been estimated that 90 percent of the illegal drugs sold in our country comes from abroad and that nearly 60 percent of all serious crimes are drug related. Despite the fact that tourism contributes $12 billion to our economy, international travelers continue to face maddeningly long lines at our borders. I would like to read a brief passage from a letter our New York chapter recently wrote to customs management officials:

> On Tuesday, October 25, 1983, 12 inspectors faced 1,447 passengers on one side of a PanAm terminal. The passengers all arrived within 25 minutes. Once again, inspectors refused to risk generating a riot and succeeded by ignoring their jobs.

For several years, this subcommittee has pressed customs to implement improved inspectional systems to speed clearance, but the bottom line is that more inspectors are needed, and no amount of procedural efficiencies will change that. The same holds true for recent efforts to control commercial fraud. Last year, witnesses from the steel, auto parts, electronics, and textile industries testi-

fied before Congress that they are suffering significant losses from counterfeit imports and the evasion of antidumping countervaling duty laws. At the same time, Customs has cut back inspections of cargo to well below 3 percent, and it now requires import specialists to bypass at a minimum 50 percent of the entry documents they receive. In some locations, import specialist are reviewing less than 50 percent of the merchandise entries. Whether you call yourself a free trader, a protectionist, or something in between, there is no excuse for not enforcing existing trade and tariff laws.

Mr. Chairman, I would like to take this opportunity to applaud the efforts of this committee in focusing attention on the sorry state of Customs commercial fraud operations.

As you are aware, on February 29, the Senate adopted an amendment to the Export Administration Act to provide an additional $12 million to Customs to combat commercial fraud and to restrict Customs from taking personnel actions which would undermine trade operations. We wholeheartedly endorse this amendment and urge the subcommittee to include a similar provision in fiscal year 1985 authorization bill.

Before I conclude, I would like to touch upon two additional issues. First, we urge you oppose any attempt to slash overtime pay to customs inspectors under the Trade Act of 1911. This long-standing commitment is rooted in the hazardous, stressful, and physically and emotionally demanding nature of this occupation, as well as a desire to provide adequate incentives to counterbalance the long and irregular hours. And second, we urge you to reject the recent recommendation of the President's Cabinet Council on Management and Administration to transfer Customs' primary inspection function at land border ports to the Immigration and Naturalization Service. We oppose the plan for the following reasons. It would undermine the narcotics interdiction by fragmenting responsibility between two agencies. It would also require INS to take on responsibility for enforcing the requirements of 40 different agencies. a mission for which it has no experience and is unprepared.

In addition, it would require the importing community in all but the largest ports to deal with INS as well as Customs in processing commercial cargo. Finally, by the administration's own admission, it would achieve zero budgetary savings and would probably cost the Government money by retaining two separate enforcement support systems.

We do believe, however, that there should be a single agency charged with border inspections. Customs is the Nation's principal border management agency in enforcing over 400 laws and regulations of the 40 other agencies. It has more inspectors than INS at all ports of entry and is now performing 60 percent of all immigration primary inspections. Consolidation within Customs is the least disruptive and the easiest to implement because it maintains continuity with other Federal agencies with border interests Customs represents and it does not require carriers, port operators, and the business community to deal with the new agency. Mr. Chairman, this concludes my remarks. My colleague and I would be very happy to answer any questions you may have at this time.

Senator DANFORTH. Thank you.

[Mr. Tobias, prepared statement follows:]

STATEMENT OF ROBERT M. TOBIAS, NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION

Mr. Chairman and distinguished members of the Subcommittee: As the exclusive representative of over 120,000 Federal workers, including all employees of the U.S. Customs Service worldwide, we are pleased to appear before you today to discuss the authorization of appropriations for the U.S. Customs Service for Fiscal Year (FY) 1985.

I welcome the opportunity to participate in the Trade Subcommittee's annual review of Customs' programs and resources. Never in its long history has the U.S. Customs Service faced such severe challenges as today. Imports of foreign merchandise are flooding the country. Last year, merchandise entries surged ahead by 13 percent, far more than Customs estimated or was prepared for. Imports doubled in volume between 1976 and 1983, a period during which Customs' resources remained essentially static.

Last year, this Subcommittee wisely authorized 650 new positions for Customs including 450 Inspectors, 150 Import Specialists and 50 Customs Patrol Officers. Had these positions been funded, they would have assisted immeasurably in coping with the wave of imports that engulfed the economy. Sadly, this was not the case. Customs remained underfunded and understaffed. Countless shipments entered the country with little or no inspection whatsoever, and only half the entry documents were reviewed by a professional Import Specialist. As a result, America's workers and industries were in large measure deprived of the protection of the Customs laws.

If anyone doubts this conclusion, let them peruse the record of last year's hearings before the Oversight and Investigations Subcommittee of the House Energy and Commerce Committee. Let them note that, despite a 13 percent increase in entries of <u>dutiable</u> merchandise, Customs' total collections last

year fell by $200 million. Let them consider that less than one percent of containerized shipments are being physically inspected, despite the demonstrated fact of concealment of drugs, contraband and restricted merchandise in these 40-foot-long assemblies. Let them observe that the withdrawal of Customs Inspectors from bonded warehouses have placed warehouse operators on a virtual honor system.

Let them visit the coasts of Florida, the Gulf of Mexico, and southern California, where thousands of returning pleasure craft meet little or no inspection, an open invitation to smuggling. Let them watch the radar screens of Customs' air patrol when the cocaine flights are coming in and only a small fraction can be intercepted. Let them drop in on our major international airports, where the shortage of Inspectors and peaking of arrivals threatens a breakdown in the inspection system.

Let them remember that illicit narcotics traffic, 90 percent of it from abroad, is now a $100 billion business in this country and no more than 10 percent is being interdicted. Let them recall that 500,000 to a million persons enter the United States illegally each year, swelling a population of illegal aliens that now stands at 5-10 million.

Few dispassionate observers doubt the reality of this situation. Yet such is the nature of our democracy that the highest officials of the Customs Service are forced to adopt a more optimistic view. They repeatedly come before the Congress mouthing such formulas as selectivity, bypass, ACCEPT, and other claptrap that are only euphemisms for nonenforcement. Conceivably, such programs could be designed and phased in properly over five to six years, provided the necessary resources were available. But to pretend that they are

working now is absurd. These much-vaunted programs are simply a way of concealing the self-evident truth that there simply aren't enough people to do the job.

Customs' success in the face of the enormous challenges it confronts is due to the hard work and professionalism of its dedicated employees who have never let up, despite the mounting disparity between workload and means. Their unrelenting efforts have prevented a public catastrophe. Yet they have been singularly ill-served by this Administration, which has not refrained to assault their pay, overtime, and retirement benefits.

There is little doubt that with the current trend of imports, international travel, and drug traffic, the challenges facing Customs are at the present moment dramatically accelerating, and can be expected to continue in the years ahead. The U.S. merchandise trade deficit was $43 billion in 1982, climbed to $69 billion last year, and could reach $120 billion this year. In the face of this onslaught of imports, Customs must be given the means to safeguard our economic security by barring entry of unsafe or counterfeit goods and evasion of tariffs or quotas.

Should the government seek new remedies, such as imposition of an import surcharge, voluntary agreements with our trading partners, or new tariffs and quotas, it will be Customs' job to implement these actions. This year, Customs is implementing the Caribbean Basin initiative. It has launched a major commercial fraud enforcement program. It is implementing the National Narcotics Border Interdiction Program. Operation Exodus, which seeks to control export of critical technology to Communist Bloc nations, is being

funded at only a token level. New resources should be provided for new missions rather than robbing Peter to pay Paul.

It is against this background that we ask you to examine the Administration's budget request for the U.S. Customs Service for Fiscal Year 1985. Clearly, what is required is a long-range plan to establish, by successive increments over a period of years, a substantial ir rease in Customs' resources to deal with the mounting workload. Underlying such a plan should be a Customs assessment, which is long overdue and urgently required, stating in explicit terms what the present degree of compliance with the Customs laws is, how much noncompliance exists, and what it is costing the country.

Like its predecessors, this budget is utterly devoid of any plan for achieving a better balance between Customs' workload and resources, and marked improvement in compliance with the Customs laws. The budget requests a cutback of 954 positions, including 452 Inspectors and 167 Import Specialists. It requires a hiring freeze, which is already in effect, meaning that vacancies among Inspectors, Import Specialists and Patrol Officers will not be filled. Even with the hiring freeze, the budget will require Customs to carry out a reduction-in-force of 500 positions beginning October 1 of this year. Customs' plan for this reduction includes cutbacks at air, land, and sea ports of entry, in the coastal marine patrol which is part of our defense against drug smuggling, and in Import Specialists at most ports which were scheduled for centralization under a plan blocked by Congress last year.

In addition to these cutbacks, $18 million is eliminated through a couple of unrealistic assumptions. The first assumption is that $7 million in

reimbursable funds will become available by amendment of the Airport and Airways Development Act to provide for carrier payment for the service of Customs Inspectors on Sundays and holidays. Secondly, it is assumed that the Department of Defense will agree to pick up $11 million in funding for operation and maintenance of aircraft in the air interdiction program. These assumptions are so tenuous that we strongly urge the Subcommittee to restore this $18 million in its authorization for FY '85.

The budget also calls for a $5 million program reduction in Operation Exodus. This would reduce Exodus to a $16 million funding level in FY '85. Such a cutback hardly squares with the arguments for stronger export controls made by the Administration in seeking renewal of the Export Administration Act. The cut should be rejected to permit the current enforcement level, which is a bedrock minimum if we are serious about export control, to be maintained.

We believe this budget should be decisively rejected and the proposed cuts fully restored. This would require an addition of $56 million and 954 average positions to the Administration's budget request. This is shown in Table 1, appended to our statement.

NTEU also strongly recommends that the Subcommittee again authorize funds for 650 new positions -- 450 Inspectors, 150 Import Specialists and 50 Customs Patrol Officers -- which passed the House last year but for which funds were not appropriated in the Continuing Resolution. In view of the dramatic surge in imports, rampant commercial fraud, shortages of Inspectors for both cargo and passenger processing, and low rate of narcotics interdiction, these positions are more urgently required than ever.

We would go a step further and urge the Subcommittee to add funds for 100 additional Customs Special Agents. The Subcommittee has received a statement from the Chairman of the House Energy and Commerce Committee concerning vast areas of noncompliance with our trade laws, including extensive counterfeiting of American products and theft of patent and trademark rights. In addition to 400 Inspectors and 100 Import Specialists needed for a strengthened commercial fraud enforcement program, Chairman Dingell recommends that 100 more Special Agents be hired to increase the number of investigations in that program. As the Subcommittee is aware, most of the commercial fraud referrals from Import Specialists cannot be followed up by the Investigations branch due to inadequate resources. The addition of 100 Special Agents would not only increase the number of cases initiated and reduce the caseload backlog, it would help deter commercial fraud by strengthening Customs' presence in the importing community.

We therefore urge the Subcommittee to add $35 million and 750 average positions above the amount required for full restoration of the cuts made by the Administration. This add-on makes a total of $91 million and 1,704 average positions as the amount we recommend be added to the FY '85 budget request. While $91 million is a large sum, it must be remembered that $56 million of this is required to restore unwise cuts made by the Administration. What we are asking the Committee to add over and above the current FY '84 level of operations is $35 million. It should also be remembered that Customs is a revenue-producing agency, currently returning $17 collected for each dollar appropriated.

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NTEU's alternative budget with the additions recommended above is shown in Table 1. This budget totals $693,443,000 and 14,073 average positions. This is an increase of $91 million and 1,704 average positions above the Administration's FY '85 budget request. We strongly recommend that the Subcommittee authorize this budget as the minimum essential amount required for FY 1985. Under the Reagan Administration, the Office of Management and Budget has basicly opted to shut its eyes to the growing Customs workload and the costs of inadequate enforcement to our vital interests. These Reagan budgets, which called for a decline in the level of real Customs resources in the face of a growing workload, were totally unrealistic and were so perceived by Congress and the travel and trade communities.

It is therefore necessary for Congress to again take the lead in decisively rejecting the Administration's budget in favor of a rational alternative. We believe the budget we have offered is supported by our own analysis and by the findings of the Oversight and Investigations Subcommittee of the House Commerce Committee, which recommended an additional $29 million above the amount required for full restoration.

As the Subcommittee well knows, countless national interests have a stake in effective enforcement of our Customs laws, including business, labor, agriculture, and the travel and tourism industry. Moreover, our country's long-term health and security depends upon effective policing of our borders, halting the flow of critical technology to unfriendly nations, and interdicting the illicit drug traffic that has such a crucial effect upon the level of violent crime.

We cannot protect these interests and achieve these goals without providing Customs with adequate capability for enforcing the Customs laws. In recent years, this has required a steadily increasing level of resources, realistically proportioned to the dramatic changes in the travel and trade sectors of our international economy, and to the narcotics, export control, and commercial fraud threats.

The key question is: How much is enough? To answer this question, we need to weigh not only the cost of the additional resources, but also the cost to society of inadequate enforcement of the Customs laws. In your deliberations, we ask you to keep in mind the following points:

First, Customs resources have remained essentially static over the last five years, despite a 60 percent growth in workload and the addition of new missions such as Operation Exodus. This situation is depicted for Inspectors and Import Specialists in Tables 2 and 3, appended to our testimony.

Second, NTEU has consistently maintained, and the reports of this Subcommittee and the General Accounting Office have confirmed, that for almost a decade Customs has been stretched thin by a growing imbalance between workload and resources, leading to wide areas of minimal enforcement or nonenforcement.

Third, Customs is a revenue-producing agency which collects an average of $17 for every dollar appropriated. An incremental increase in Inspectors or Import Specialists would yield a minimum return of three-to-one, according to Customs. GAO studies have indicated that much revenue is lost from inadequate inspection of containerized cargo, and inadequate verification of merchandise entries. The evidence strongly indicates that Customs is definitely operating

at resource levels where additional staff would yield revenue increases significantly greater than their cost.

Fourth, while it may be tempting to make economies, as has been the practice in recent years, at the expense of a law enforcement arm such as Customs, in the long run this is extremely unwise, because such reductions only rebound as increased costs in other parts of federal, state and local budgets. We must weigh the costs to communities of drug treatment clinics, plant closures, and unemployment. We must weigh the costs to industry of commercial fraud, theft of industrial secrets, and counterfeiting. Our estimate, compiled from several sources, is that such costs now amount to over $100 billion annually.

In the remainder of our testimony, we would like to discuss policy issues in each of the principal areas of Customs activity -- Inspection and Control, Tariff and Trade, and Tactical Interdiction. We will call attention to the manner in which our society and economy are dependent upon Customs' law enforcement, and the social and economic costs of inadequate enforcement. We will present an analysis of the number of additional Inspectors, Import Specialists and Special Agents required for significant improvements in Customs' law enforcement. We will conclude by summarizing our recommendations for Fiscal Year 1985.

INSPECTION AND CONTROL

The Reagan Administration has announced a major policy decision to consolidate responsibility for primary inspection of incoming persons in the

U.S. Customs Service at air and sea ports, and in the Immigration and Naturalization Service at land ports of entry. NTEU has been informed that legislation implementing this decision is being drafted and will shortly be presented to the Congress. We know that this Subcommittee will play a leading role in giving this proposal careful scrutiny, because of the vital interests affected and the Reagan Administration's apparent inability to referee the competing claims of the Treasury and Justice Departments.

There are many vital interests at stake in the design of an effective primary inspection system. Customs' Inspection and Control mission includes interdicting traffic in drugs, curbing illegal immigration, serving a growing domestic tourism industry, safeguarding American agriculture, controlling the export of critical technology, and enforcing currency controls, endangered species and environmental laws, and many other laws and regulations. Any streamlining of federal inspectional responsibilities must enhance our ability to accomplish these missions to protect our vital interests.

Speaking on behalf of the employees of the U.S. Customs Service, I have no doubt that assignment of primary inspectional responsibility to Customs at air and sea ports is sound and should be approved. A natural evolution in this direction has been underway for some time. The one-stop inspectional system in effect at many ports has required Customs Inspectors to carry out INS functions in processing travelers from abroad. To backup these duties, Customs has expanded its automated Treasury Enforcement Communications System (TECS). It is experimenting with passport optical scanning equipment to detect forgeries. Immigration clearance has been built into the most recent

passenger facilitation systems that Congress has required to be used as a model, namely, the ASIST concept introduced in Miami and Los Angeles.

Moreover, for the past several years INS has been gradually withdrawing inspectional resources from both air and sea ports and land border ports. In the State of Montana alone, INS proposed last year to close five ports of entry, with Customs picking up the slack. Customs Inspectors now outnumber INS Inspectors at all land border ports by 1,100 to 800, and are processing 58 percent of the traffic.

In the Southwest and California, Customs Inspectors and Patrol Officers are now playing a vital role in curbing illegal immigration. Most of the legal foreign tourist and business traffic, and some of the illegal immigrant traffic flows through cities and land ports of entry. Customs Inspectors and Patrol Officers are inspecting millions of pedestrians and vehicles at border crossings each year, performing both Customs and Immigration functions.

We are therefore dismayed at the Administration's failure to assign primary inspection responsibility at land border ports to Customs also. We have no doubt that Customs Inspectors can carry out this responsibility, backed up by an INS secondary, as effectively at land border ports as at air and sea ports.

I know the Subcommittee wishes to examine this matter thoroughly, and I would therefore like to expand on these points in some detail.

I mentioned the vital interests in our economy and society that have a stake in the Customs inspectional system. While these interests will be better served by assigning primary inspection to Customs at air and sea ports, they would be ill-served by involving two agencies in what is now the

responsibility of one at our land ports of entry. Let me illustrate with respect to each of the major tasks I have mentioned.

Deterring and Interdicting the Drug Trade

Last year, Customs Inspectors at our ports of entry, backed up by detector dog and contraband enforcement teams, registered important gains in the war on drugs. Heroin seizures were up 70 percent, and cocaine seizures up 27 percent over 1982. Customs contraband enforcement teams, which provide thorough search of baggage and cargo, were responsible for a significant portion of this increase. These teams of Inspectors, backed up by Import Specialists and Patrol Officers, are now in operation at 50 ports, and comprise 12 percent of Customs' Inspectional resources. At the same time, Inspectors manning passenger clearance checkpoints -- the primary defense against couriers who bring most of the heroin and a significant part of the cocaine into this country -- have accounted for 9-12 percent of all drug seizures.

Our dedicated and hard-working Inspectors are indeed making progress, but there are simply not enough of them. There is a real question whether the bottle is half-full or half-empty. The General Accounting Office reports that while 90 percent of illegal narcotics come from abroad, only 16 percent of the marijuana and no more than 10 percent of the heroin and cocaine is being intercepted. Two weeks ago, the Justice Department announced the indictment of 53 persons in the largest cocaine trafficking ring in the nation's history. Over a period of 16 months this ring had smuggled five tons of cocaine worth $3.8 billion by flying it to U.S. cities in loads of 600-1,000

lbs. Overall, despite stepped-up efforts in the drug war, Justice reports that the amount of cocaine and heroin entering the country last year remained about the same as the year before.

One can only conclude that we have a long way to go. This is the opinion of the respected Chairman of the Select Committee on Narcotics Abuse and Control, the Honorable Charles Rangel, who conducted extensive hearings into the problem last year.

The social costs of this traffic are enormous. One in six high school seniors have used cocaine. The large influx of heroin over the past three years has led to a dramatic increase in deaths and emergency room admissions for heroin overdoses, according to the Drug Enforcement Administration. In a study completed for the State of New York, former Health and Human Services Secretary Joseph Califano estimated that the cost of drug addiction in terms of health care, federally-funded treatment centers, and loss of work days was more than $40 billion a year. President Reagan has noted that crime is an American epidemic, touching nearly a third of American homes and resulting in $8.8 billion a year in financial losses. Law enforcement authorities estimate that between 40 and 60 percent of all serious crimes occurring in the United States are drug-related.

At this stage of the war on drugs, it would be disastrous to involve the already over-taxed Immigration and Naturalization Service in the drug war by assigning it primary inspection responsibilities at land border ports. Such fragmentation of narcotics interdiction would make no sense. It would result in costly, duplicative efforts by two agencies where one is now performing the mission.

Safeguarding American Agriculture

This same argument applies to the task of preventing the introduction of foreign plant or animal pests that would endanger our $500 billion agriculture industry. When an outbreak of disease occurs, eradication costs are enormous. A Mediterranean Fruit Fly infestation would cost $200-$250 million annually in agricultural losses. African Swine Fever could be brought into the country in a ham sandwich by an unwary passenger, or through pork products contained in passenger baggage or airplane waste. There is no known treatment for the disease, which would cost $2 billion in losses the first year. Last year, Haiti's entire hog population had to be slaughtered, with the United States picking up the bulk of the tab, because of the threat to our shores.

An adequate level of baggage inspection at our ports of entry is an absolute necessity. Customs Inspectors have been trained to provide such inspection during primary passenger clearance, while employees of the Agriculture Department's Animal and Plant Health Inspection Service provide secondary backup. It would be unwise to fragment this mission further by introducing a third agency, INS, into the picture.

Halting Illegal Immigration

Last year, the number of arrests of illegal aliens at the Mexican border leaped 40 percent to 1.3 million -- the first time in history that more than a million arrests were recorded. San Ysidro, California is the busiest point of illegal entry in the country, accounting for 432,000 of the illegal aliens

apprehended. The El Paso sector is the second biggest crossing, averaging 20,000 monthly apprehensions. At these and other ports of entry along the Mexican border, Customs inspectors have been working alongside INS inspectors in conducting primary inspections. The deterrent effect of these inspections forces the bulk of the illegal immigrant traffic into the space between ports of entry, which are covered by the INS Border Patrol.

The migrants themselves, fleeing from the worst economic crisis in the history of Mexico, say they'll keep trying until their trips to the United States are successful. Even though much of the 2,000-mile border is steaming desert and unsuited for travel, the Border Patrol has been stretched thin. Observers have noted that only one-tenth of the force is active at any time, and some checkpoints are closed part-time. Smugglers know the Border Patrol's hours and work after a station closes. For example, last month a surprise opening of the San Clemente checkpoint netted 413 aliens and 18 smugglers in a matter of hours. This shows that an increased workforce could severely curtail alien traffic. For FY 1985, the Administration has proposed 1,000 new positions for the Border Patrol.

Another way the Border Patrol could be provided the increased resources it requires would be for Customs to assume primary inspectional responsibilities at land border ports. Customs already has one-third more Inspectors at land ports than INS and these Inspectors regularly conduct immigration primary inspections. For years, Customs has been filling the gap where insufficient INS inspectors are available. In many smaller ports, there is no Immigration presence at all, and Customs Inspectors are doing both agencies' jobs. The Border Patrol could then concentrate on its primary mission of apprehending

illegal aliens between ports of entry, while Customs conducted primary inspection of travelers at the ports themselves.

The social costs of not dealing effectively with the mounting tide of illegal immigration are enormous. Just last week, the Washington Post quoted an estimate of $18 billion annually for the cost of unemployment and other benefits received by legal residents whose jobs are taken by illegal aliens. A full accounting would add the cost of welfare and other benefits received by the aliens' families. The State of Illinois has estimated that it loses $66 million a year from fraudulent unemployment claims filed by aliens. Over the longer run, the pressures of 37-70 million people will be added to the U.S. population in the next half-century.

Clearly, the problem has reached massive proportions and must be dealt with effectively. All indications are that INS is spread too thin to be charged with carrying out the Customs primary inspection mission at land ports of entry. The difficulty the agency has experienced in automating its files, rendering timely services, and coping with foreign students and professionals who come in legally and then overstay their permits, is well-known. According to John Crewdson, who won a Pulitzer prize for his stories on immigration in the New York Times, INS is stretched thin to transparency and stuck in its past. Fairly or unfairly, he calls it "the most Kafka-esque labyrinth thus far devised by government".

Exodus, Currency Smuggling, Endangered Species and Environmental Protection, Inspection of Commercial Cargo at Smaller Land Ports, and Apprehension of Criminal Fugitives

It is frequently noted that Customs, as the nation's primary border management agency, has had delegated to it by 40 other government agencies the responsibility for carrying out the laws and regulations of those agencies at the border. Customs has a broad and diverse mission as contrasted to the single mission of INS. Customs provides 60 percent of the staff making inspections at land ports, and carries out the bulk of these inspections. All of these inspections are one-stop, that is, Customs Inspectors implement all agency requirements, including INS. It seems to us that it would be far easier to train Customs Inspectors to absorb INS responsibilities at the border, than the reverse.

Transfer of primary inspection responsibilities to INS at land ports would be highly disruptive of major programs such as Exodus and currency control. It would require 40 different agencies to deal with INS concerning their enforcement requirements, virtually doubling the amount of coordination required since they would have to deal with two agencies rather than one. Such fragmentation of responsibility in border enforcement would not make sense.

Consider also the plight of the importing community at the many small land ports on our Northern and Southern borders. Responsibility for inspecting commercial cargo transiting these ports would of necessity fall to the local INS port director, who would be required to process merchandise trade now

handled by an experienced Customs Inspector - Import Specialist team. Since inspections would be made by INS, and entry documents would go to Customs, the fragmentation of responsibility in processing this trade is apparent.

Customs responds to the requirements of other law enforcement agencies by apprehending fugitives from justice. As a matter of fact, each year Customs apprehends more wanted felons than any other law enforcement arm in the country. This is made possible by the training Inspectors receive, and by the modern Treasury Enforcement Communications System (TECS), which accesses the wanted persons, stolen vehicles, and other intelligence of the National Criminal Information Center. TECS permits rapid automatic search of over a million files. By contrast, the INS Lookout Book contains 60,000 manual entries, all of which are in the TECS data base. By training, number of in-place staff, and enforcment support systems, Customs is far better prepared to assume the primary inspection mission at land ports.

It should be remembered, too, that inspection of travelers for immigration purposes is a straightforward procedure. Of the 180 million aliens who present themselves for entry each year, no more than .3 percent are denied permission as a result of border inspection. The dimensions of the illegal immigration problem require much more enforcement capability between ports of entry than at those ports. By placing primary inspection responsibility in Customs at all ports, the nation would have a unified border management system, and INS would be able to concentrate its efforts on curbing illegal immigrant traffic outside the ports.

In the Administration's proposal, 165 positions of the Customs Patrol operating in and between land ports of entry would be transferred to INS.

These specially trained uniformed and undercover operatives support Customs' missions, especially narcotics interdiction and Exodus, and are an integral and essential part of Customs' border enforcement strategy. Transfer of these positions would seriously weaken the war on drugs at a time when it needs to be stepped-up. We strongly oppose the removal of these specialized assets from the narcotics and contraband mission for which they were recruited and trained.

Clearly, consolidation of primary inspections at air and sea ports in Customs is a step in the right direction. But the Administration's proposal does not go far enough, and in fact, at land ports it is a step backward from consolidated border management. Only 12 percent of persons entering the country arrive at air and sea ports, the remaining 88 percent enter through land ports. If real progress is to be made in protecting the vital interests we have outlined, a single agency should have primary responsibility for all ports of entry. Customs' mission is exclusively border management. It is prepared to assume primary responsibility at our land ports, where it is already doing the bulk of the job.

There would be far-reaching benefits to moving to a single border management agency. These benefits would stem from the ability to standardize forms and procedures, and to apply modern technology to border clearance. The passport, visa, I-94 form, and baggage declaration presently used by the two agencies in the inspection process could be consolided and automated to provide vast gains in facilitation, enforcement, and cost savings.

Combining the I-94 form with the Customs baggage declaration would eliminate millions of forms each year. Airlines could be provided with

optical scanning passport terminals which would eliminate the need for their collecting the second copy of the I-94 on the alien's exit from the country. This would be a feasible way of gaining a reasonable degree of control over aliens entering and over-staying their visas or violating the terms of those visas.

In addition, with development of a machine-readable passport the primary Inspector would no longer have to enter a TECS query and primary inspections could be completed more smoothly and efficiently.

The consequence of not consolidating border management in a single agency nationwide is not merely the continuation of costly and redundant systems and paperwork. It means that government, industry, and the public will not realize the benefits and efficiencies that could be achieved through full consolidation.

Let me outline the Adminitration's specific plan, so you can better grasp its full dimensions.

At the present time, Customs has 900 positions committed to inspection at air and sea ports, and 1,064 positions at land ports. INS has 719 positions committed to inspection at air and sea ports, and 800 positions at land ports. If the Administration's plan is approved, Customs will absorb all but 214 of the INS positions at air and sea ports (including pre-clearance). The 214 positions would be for INS secondary inspections. At land ports, INS would absorb all but 426 Customs positions, which would be used for secondary inspections.

INS would thus gain 638 positions from Customs at land ports. The workload would not change. For the most part, the people doing the work would not change. Essentially, there would be a swap of uniforms.

Customs would similarly gain 442 positions at air and sea ports. Overall, there would be a net loss of 200 positions from Customs to INS, reflecting the fact that Customs has a greater commitment at land ports. This information is shown in Table 8, appended to our statement.

The plan for transfer of personnel calls for a freeze on movement into affected units, the issue of specific notices to affected personnel, and a mass transfer at a designated pay period. The plan states: "We expect to transfer vacancies first, volunteers second, and to fill the remaining positions using appropriate transfer of function procedures." However, it also provides for placement or separation of affected employees who decline offers of transfer.

That is all the personnel plan says. It is incredible how little attention was given by these high-level big shots to the massive human and morale problems associated with such a wrenching change in their lives. You can be sure, Mr. Chairman, that they are going to have to deal eventually with this union and this union's representatives, and we intend to assert the full legal rights of our members in this inter-service transfer.

We know that if Congress legislates a solution to this issue, as we anticipate it will, this Subcommittee will be far more open to consultation than our employer, the Federal Government, has been to this point.

What budgetary savings are claimed for these transfers? Customs would lose 638 positions and $24 million; however, these resources would be

transferred to INS. By the same token, INS resources at air and sea ports would be transferred to Customs. The net effect: 0. The government claims not a dollar of savings for its proposal!

The reason is that the proposal before us is a compromise, and was deliberately labeled as such by OMB when Treasury and Justice could not agree. By contrast, the senior working group that developed options for the Cabinet Council's consideration produced five options, all but one of which entailed budgetary savings.

These options were: 1) consolidate primary inspections in Customs; 2) consolidate primary inspections in INS; 3) consolidate primary inspections at airports in Customs, status quo at all other ports; 4) consolidate primary inspections at land ports in INS, status quo at all other ports; and 5) consolidate full responsibility for passenger inspections in INS and retain responsibility for cargo inspection in Customs.

Of these options, it is significant that the one with the greatest savings, and therefore the most cost effective, was the first, consolidation of primary inspections in Customs. According to Customs, Option 1 would save 973 staff-years and $27 million. INS disputed these figures by maintaining that if Customs took over primary inspections, INS would require additional positions for secondary inspections. However, this view was contrary to the working group's assumption that, through proper training, no additional resources for secondary would be required.

Customs performed a detailed study of the additional resources required at each port of entry for full consolidation within Customs. It concluded that with 518 additional positions and no additional overhead it could assume the

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primary inspection mission at all ports. These 518 positions are less than half the amount presently expended by INS on primary inspections, so there would be substantial savings from full consolidation within Customs. After subtracting $10 million required to fund these 518 positions, the Working Group estimated annual savings of $27 million from this option.

Later, Customs stated that it could assume the entire primary inspectional mission with no increase in resources. This would make the annual savings a minimum of $37 million, not counting future gains from streamlined procedures and consolidation of support systems and other overhead.

In its study, Customs found that with only 286 additional positions it could take over the entire inspectional mission at land ports. There would be no requirement for additional overhead or support systems, which were already in place. Customs would simply absorb immigration inspections at considerable productivity savings, in the same manner that it has taken on responsibilities for 40 other agencies at the border.

By contrast, if the Administration's proposal is adopted, savings would be zero and the nation would end up with two border management agencies. As the draft Memorandum of Understanding between Customs and INS makes clear, INS would not only have responsibility for primary inspection of persons at land borders, but it would also have primary responsibility for all inspections, other than cargo inspections at the largest ports. At small ports, there will be no Customs presence and INS will inspect and process documentation for commercial merchandise. INS will perform both primary and secondary inspections to meet Customs' requirements with respect to commercial cargo.

At larger ports, there will be a Customs secondary to inspect and process cargo. But the INS port director will have sole responsibility for primary inspection of all traffic so Customs will lack on-the-spot authority to insure control over cargo so that its requirements and those of other agencies are met. This situation would be highly disruptive of narcotics, commercial fraud, Exodus and other programs Customs is charged with enforcing.

Only at the largest ports (Detroit, Port Huron, Buffalo, Lewiston, and Champlain) would Customs continue to inspect commercial trucks entering designated commercial vehicle primary lanes, and process all cargo.

The Memorandum of Understanding makes INS the exclusive authority in dealing with the independent governing bodies that control the flow of traffic across the U.S. border with respect to the primary processing of private passenger vehicles, taxis, buses, pedestrians and passenger trains. It makes Customs the exclusive authority in dealing with the independent bodies that control the flow of commercial trucks across the U.S. border into the primary or otherwise designated lanes. Without doubt, the Administration's proposal would continue to divide responsibility for enforcement at our land borders, and do so in a manner that is highly disruptive of existing Customs programs.

There would be costs to the business community as well. At the so-called "small ports" on the land borders, where Customs' presence is to be withdrawn, the importing community is rightly alarmed at having to deal with a new agency for processing merchandise. Presently, Customs Inspectors are teamed with Import Specialists for inspecting and processing cargo. Importers now face the prospect of having to deal with two agencies, one for inspection and one for entry processing. The teamwork and sharing of expertise between Customs

Inspectors and Import Specialists will be eroded by placing them in separate agencies, and the importing community will bear the burden of foul-ups and lack of communication between the two agencies.

The Administration's proposal also perpetuates wasteful duplication between Customs and INS. Under the Memorandum of Understanding, each agency maintains responsibility for its existing enforcement support system (TECS for Customs and Service Lookout Book/Central Index for INS), and each agency is authorized to continue to develop systems that will enhance primary inspection. This duplication would be avoided if primary inspection at all ports were consolidated in a single agency. Moreover, INS presently lacks an automated system except at one airport, so making Treasury the single manager for enforcement support systems is an obvious solution.

Let me now recapitulate the arguments for consolidation of primary inspections entirely within Customs.

- First, Customs is the nation's principal border management agency. It carries out responsibilities for 40 other agencies, and can do so for INS. There should be a single agency charged with border inspections.
- Second, Customs is better prepared than INS to do the job. It has more Inspectors than INS at all ports of entry. It is now performing 60 percent of all immigration primary inspections.
- Third, border management is Customs' sole business, whereas INS has other responsibilities. INS devotes minimal resources to border inspection because only .3 percent of those inspected are denied entry, and the principal threats it must counter are aliens crossing between ports of

entry and overstaying their entry visas. The Grace Commission Report makes this point when it states:

> "Note that although the INS staff has risen by 47 percent since 1971, its inspection staff increases have totalled only 7 percent. Customs' staff, however, has risen only by 2 percent, although its inspection staff is up by 22 percent."

- Fourth, consolidation within Customs is the most cost-effective of the options available, with minimum savings of $27-37 million annually, according to data developed by a senior working group chaired by OMB.
- Fifth, there is a large potential for future savings through streamlining forms and procedures, new technology, and new enforcement and facilitation techniques. The potential saving is less if consolidation extends to air and sea ports alone, which handle 12 percent of traffic, or if consolidation is divided between Customs and INS as in the Administration's proposal.
- Sixth, consolidation within Customs will, during off-peak hours, provide additional staff for cargo inspection, thereby strengthening narcotics and commercial fraud enforcement programs. INS claims that this is off-set by its loss of capability to process aliens' claims and other adjudications which are processed by Inspectors during downtime, but its own studies have shown that distributing adjudication workload to ports to fully utilize Inspector downtime is an inefficient means of processing such workload.
- Seventh, Customs has automated enforcement support systems, including TECS and intelligence support, in place and a long track record of developing such systems, whereas INS has little or no such experience.

- Eighth, consolidation within Customs is the least disruptive and easiest to implement because it maintains continuity with 40 other Federal agencies whose border interests Customs represents, and it does not require carriers, port operators, and the business community to deal with two agencies instead of one.
- Ninth, overtime costs to the government would be reduced by an estimated $1.5 million per year through carrier reimbursement of inspectional overtime.
- Tenth, immigration inspection is a straightforward process which Customs Inspectors are already performing; they can more readily take on immigration inspection than having INS become involved in merchandise inspection, narcotics enforcement, Exodus, and the requirements of 40 other agencies.

The obverse of these points is that consolidation in INS would be an unrealistic solution. It would fragment total border inspection responsibilities to an even greater degree, double the need for coordination for the 40 agencies requiring border support, give INS extensive new responsibilities which it is ill-prepared to absorb, and reduces narcotics enforcement at the worst possible time. It would reduce efficiency by maintaining redundant enforcement support systems, requiring the public to deal with too large border agencies whose interests may often conflict, and reducing the ability to shift resources between passenger and cargo inspection. When one considers the massive illegal immigration problem between ports of entry, and the major new tasks INS will confront if

Simpson-Mazzoli is enacted, it becomes clear that consolidation in INS would be unwise. The nation needs a single border management agency, not two.

Nevertheless, INS has opposed consolidation within Customs. INS has argued that this option would: 1) fragment immigration procedures between two agencies and thus weaken immigration control at a time when document fraud is pervasive; 2) give Customs primary control of 61 percent of travelers who are aliens and should be under INS control; 3) require increased staff for INS secondary inspections resulting from more secondary referrals when Customs Inspectors perform primary inspections; and 4) require increased staff to process adjudications if primary inspectors cannot be utilized during downtime.

These arguments do not hold water. The major immigration threat is between, not at, ports of entry. While INS has an interest in 61 percent of the travelers who are aliens, Customs has an interest in 100 percent of them from the standpoint of narcotics, agriculture, public health and other enforcement requirements. Given that in excess of 500 experienced INS Inspectors would voluntarily transfer to Customs, and Customs Inspectors would receive additional immigration training, there is little basis for presuming a sharp increase in secondary referral. Finally, since consolidation could take place with little or no shift of funded positions from INS to Customs, INS would be left with sufficient positions to discharge its adjudications workload.

The Administration's proposal is a half-way house resulting from OMB's decision to opt for a compromise rather than impose a solution on the Attorney General. When one considers that 88 percent of all travelers and a large volume of our foreign trade crosses the Canadian and Mexican borders, there is

an instant realization of how foolhardy this course would be. Let me summarize the principle points. This course would:

- Undermine narcotics interdiction by fragmenting responsibility between two agencies;
- Require INS to take on responsibility for enforcing requirements of 40 different agencies, a mission for which it has no experience and is ill-prepared;
- Require the importing community at all but the largest ports to deal with INS as well as Customs in processing commercial cargo;
- Achieve zero budgetary savings, and probably cost the government money by retaining two separate enforcement support systems;
- Create far greater disruption at land ports by giving the mission of Customs, a multi-function and service agency, to a single-mission agency, INS;
- Fail to recognize that Customs is already processing 60 percent of the immigration workload at land borders; and
- Preclude achieving the long-range savings that would flow from full consolidation in a single border management agency.

On behalf of the employees of the U.S. Customs Service, I strongly urge the Subcommittee to reject the Administration's proposal to assign primary inspection responsibility to INS at land borders, and to opt instead for full consolidation within Customs at all ports of entry. The times demand a single U.S. border inspection agency. This will permit INS to concentrate on the crux of the illegal immigration problem, movement between ports of entry and overstaying entry permits. This Subcommittee can strike a blow for both

stronger enforcement of the narcotics and trade laws, and stronger immigration control, by adopting our proposal.

Adequacy of Inspectors at Ports of Entry

According to the U.S. Travel Data Center, visitors from abroad contribute more than $12 billion annually to the United States economy, generating over $1 billion in Federal, State, and local tax revenues and supporting 320,000 jobs. We have a national policy of encouraging foreign visitors to this country. This has led in recent years to the rapid growth of passenger arrivals at our land, sea, and air ports of entry, visibly taxing Customs' capabilities. Foreign visitors are now coming to the U.S. at the rate of 20 million a year, about 8 million from overseas and the remainder from Canada and Mexico.

This country has too much to lose by imposing roadblocks to the expansion of our tourism industry. Yet, as any visitor to our international air terminals and many other ports knows, even during peak hours many Customs processing lanes are closed for lack of staff. What is more, many cities and regions are seeking to participate in the growing tourist trade by becoming international gateways, and the inability to provide sufficient Customs Inspectors to staff these new facilities is painfully apparent.

The U.S. market share of international tourism has been falling in recent years. According to the Travel and Tourism Government Affairs Policy Council, the United States now gets only 8 percent of foreign tourists. A principle

deterrent, according to the Congressional Tourism Caucus, is the long Customs lines that greet foreign visitors.

This situation can be traced directly to the Reagan Administration's short-sighted budgetary policy. The number of Customs Inspectors in FY 1984 is almost 100 less than in FY 1981, and in FY 1985 the Administration is calling for a further cutback of 452 Inspectors. This proposal comes at a time when the Air Transport Association, after a thorough survey, found that a minimum of 236 additional Inspectors was needed at airports alone.

In addition, many land border ports are still experiencing long lines during peak hours. Each year on the floor of the House, the Congressional delegation from Texas had demanded additional Inspectors for the ports of that State. Were it not for the economic crisis afflicting Mexico at the present time, and drying up much of the tourist traffic, the situation in the Southwest would be much worse than it is at present.

At several international airports, Customs has introduced a new passenger clearance system, known as Red/Green. The theory behind this system, which Customs seems to be touting as the wave of the future, is that by giving passengers the opportunity to self-select either the green lane (no Customs items to declare) or the red lane, passenger facilitation is improved without reducing enforcement. The system is augmented by roving Inspectors who monitor passengers both in primary lanes and baggage areas, and who may designate individuals for immediate by-pass or for detailed secondary inspection.

This system, like many Customs has introduced in the past, might work if sufficient numbers of Inspectors were available. For any system to work,

there must be adequately staffed primary lanes and an adequately staffed secondary. In the Red/Green system, there must be sufficient numbers of Inspectors to conduct primary inspection of passengers selecting green lanes, as well as red lanes.

To start with an insufficient number of Inspectors, an inadequate secondary, a few rovers, and a handful of green lanes where passengers are whisked through with only cursory examination because to do otherwise would create a log-jam or a riot, is simply non-enforcement disguised as "selectivity". Customs management is insisting that putting passengers on the honor system, with inadequate primary and secondary inspection, and general supervision by a few roving Inspectors is the answer to clearing the terminal before the next wide-body jet comes in. The gain in passenger facilitation is much approved by the airport operators and carriers. It is only our country that suffers from lack of an effective deterrent against drug smugglers, terrorists, and criminals of all types.

You have been told again and again that selectivity is the answer, and I expect you will be told repeatedly that Red/Green is the answer. But I am here to tell you, on behalf of our Customs Inspectors that you are being deceived. These systems are a pretense that enforcement still exists, when it is being discarded. The only answer to adequate facilitation and enforcement is to provide an adequate staff.

Our Inspectors are doing a splendid, courageous job. The trouble is there are not enough of them. Customs touts their seizures of narcotics and other contraband as proof that enforcement has not flagged. This praise is

merited. But Customs management should come clean and tell the full story, what is not being intercepted, what is getting through.

I'd like to read a brief passage from a letter our New York Chapter recently wrote to Customs management officials:

> "On Tuesday, October 25, 1983, twelve Inspectors faced 1,447 passengers on one side of the Pan Am terminal. The passengers all arrived within 25 minutes. Once again, Inspectors refused to risk generating a riot and succeeded by ignoring their jobs."

So much for selectivity and Red/Green. We trust the Subcommittee will ignore these delusions and approve our recommendations for additional Customs Inspector positions.

Adequacy of Inspectors for Commercial Fraud Enforcement

The vast amount of commercial fraud designed to evade tariffs or quotas, to avoid anti-dumping or countervailing duty penalties, or to procure entry of counterfeit products has been amply documented by the Oversight and Investigations Subcommittee of the House Energy and Commerce Committee. The loss to U.S. firms from counterfeit products alone has been estimated by the International Trade Commission as $6-8 billion annually. Much of this loss could be prevented if adequate numbers of Inspectors were available to inspect commercial cargo at our ports of entry.

One of the best indicators available of the adequacy of cargo inspection is the rate of inspection of containerized shipments. Large containers now account for more than 70 percent of U.S. seaborne commerce, and are a growing proportion of air and surface shipments. In FY 1980 Customs performed a total

of 81,234 inspections on a total of 2,800,000 arriving containers, for an inspection rate of 2.9 percent.

Since that time, the inspection rate has fallen as Customs introduced "selectivity" in cargo inspection through the ACCEPT program. ACCEPT, which stands for Automated Cargo Clearance and Enforcement Processing Test, is another area where Customs is moving headlong toward adoption of a new inspection system without proper evaluation of the impact on enforcement. The idea behind ACCEPT is that since Customs can make only a limited number of inspections, these should be concentrated on "high risk" shipments where the pay-off is potentially greater for the resources expended.

The problem is how to determine which are the "high risk" shipments. It is not possible to set up a computerized system for fingering the shipments to be checked, as ACCEPT attempts to do, without a great deal of data collection and construction of profiles of the characteristics of "high risk" shipments and "high risk" importers. There is no evidence that Customs has collected this date and constructed the profiles, let alone tested them. What we can expect from this system is "garbage in, garbage out". The system will do a less than adequate job in guiding Inspectors to the shipments that need checking.

Since there are too few Inspectors, ACCEPT is a rationalization for performing fewer and fewer inspections while commercial fraud mounts. Once again, Customs contends that enforcement has not suffered, pointing to the results obtained from the efforts of Inspectors and Contraband Enforcement Teams. But the House Commerce Committee's hearings on the volume of commercial fraud have reduced this claim to tatters.

The fact is that a certain level of inspections are required to provide a sufficiently high probability of interception of illegal shipments. When staff is insufficient, the limited number of inspections may indeed produce results, but when those results are extended over the entire population of shipments, they demonstrate that a massive amount of illegality is not being caught. Customs' use of "selectivity" is simply a rationalization of the circumstances in which it finds itself lacking an adequate staff to do an effective job.

NTEU has conducted an analysis to determine the magnitude of the shortage of Inspectors in containerized cargo processing essential to commercial fraud enforcement. Our analysis shows that in order to raise the number of inspections to 105,000 per year, 483 additional Inspectors would be required. Even so, only 3.5 percent of all containerized shipments would be inspected. The NTEU analysis is presented for three different enforcement levels in Table 4, appended to our testimony.

Many containers proceed in-bond to Customs bonded warehouses. Last year, Customs removed its physical presence from the bonded warehouses, in effect placing the warehouse proprieters on the honor system. At that time, we urged the Subcommittee to halt this program, arguing that the potential for fraud, abuse, and scandal is huge. Our fears were amply borne out by the findings of the Oversight and Investigations Subcommittee of the House Energy and Commerce Committee. That Subcommittee has now urged re-establishment of the Customs warehouse program. We fully support this move, and urge you to authorize the required resources.

ACCEPT is supposed to be a computerized system, with a central computer designating to the Inspector which shipments are to be inspected. In many ports, however, a computer hook-up is not available, or may not be functioning, so a "manual" ACCEPT has been instituted. This means a headquarters supervisor designates the inspections to be made. From the standpoint of enforcement, both computerized and manual ACCEPT are utterly phony and untested systems. Their principle effect is to limit the number of inspections, thereby speeding the flow of merchandise from docks to warehouses without inspection, greatly multiplying the opportunity for commercial fraud.

In order to implement ACCEPT, Customs has had to rewrite the Tariff Act of 1930. Section 499 of the Act requires inspection of not less than one package of every invoice and not less than one of every ten packages of imported merchandise. The law authorizes the Secretary of the Treasury to provide, by regulation, that a lesser number of packages may be examined when, in his opinion, the examination of a lesser proportion will amply protect the revenue. This provision allows the Treasury Secretary to reduce the number of inspections required, but not to totally abrogate the requirement for minimum inspection contained in the law. However, on September 10, 1981, Customs issued a regulation which allows the release of merchandise <u>with no inspection at all</u>.

Last year, we called for public hearings on ACCEPT and the related Customs regulation of September 10, 1981. We also urged this Subcommittee to bar any funds for implementation of ACCEPT until this panel is satisfied that the public interest is protected by adequate physical inspection of incoming cargo. As for protection of the revenue, we wish to note that last year,

despite a 13 percent increase in dutiable merchandise entries, Customs receipts declined by $200 million. The House Commerce Committee has expressed similar skepticism about ACCEPT.

We again strongly urge the Subcommittee to act on this important matter. We urge hearings on ACCEPT, and barring of any funds for further implementation. We also urge approval of additional Inspectors for cargo inspection and commercial fraud enforcement, as contained in NTEU's alternative budget. We wish to point out that the House Energy and Commerce Committee likewise recommended additional Inspectors for this task.

Operation Exodus

Operation Exodus was initiated by Customs in late 1981 to step-up enforcement of the export control laws. The FBI had discovered a pervasive pattern of activity by Soviet agents to obtain American technological secrets by means of bribes and other enducements. Their targets were lasers, fiber optics, computers, and telecommunications equipment.

The Senate Permanent Investigations Subcommittee after a two-year inquiry has confirmed that the Soviets are engaged in a massive effort to acquire Western technology by any means, and have been able to use such technology to modernize and speed the development of their weapons systems. Such advances require responses by our own military establishment, and this increases the size of our defense budget.

As a CIA report on this subject explains:

> "It is clear that the Western military expenditures needed to overcome or defend against the military capabilities derived by the

acquisition of Western technology far outweigh the West's earnings from the legal sale to the Soviets of its equipment and technology."

Recently, Operation Exodus has scored some notable successes, including preventing a computer which had been licensed improperly for shipment by the Commerce Department from reaching Soviet hands; and the arrest of five persons, including two Chinese citizens, on charges of trying to smuggle to China electronic equipment that can be used in missile guidance systems.

Despite the importance of this program to our national security, the Administration has proposed cutting it back by $5 million to a $16 million funding level. We believe that so soon after the program has begun to bear fruit, reducing it to a token level would be imprudent. We urge the Subcommittee to reject this cut, and going further, provide the resources for an adequate export control program.

We would like also to point out that there is a turf battle brewing between Customs and Commerce which is seeking a greater enforcement role in this area. We strongly recommend that the Subcommittee look into this matter and ensure that wasteful duplication of funds and effort is avoided.

Inspectional Overtime

Inspectional overtime has become a critical resource for meeting Customs'growing demands for clearance of passengers and cargo. For nearly a decade, a virtually static inspectional force has had to process a growing number of air travelers and cargo shipments. With its

workforce limited by OMB personnel ceilings, Customs inspectional overtime expanded to fill the gap between workload and resources.

An Inspector with overtime earnings of $15,000-$20,000 a year works an average of 62 hours a week, 52 weeks a year. A 1981 Customs study of overtime showed that, in addition to a normal 40-hour week, the average Inspector is required to work three of every four Sundays, one Saturday per month, and seven week-day overtime assignments per month. The requirement for this overtime is driven by the demand of carriers for Customs inspectional services during other than normal duty hours of the port. Because of the growing workload and limited staff, it is evident that an extensive commitment to inspectional overtime is essential if Customs is to accomplish its mission.

For Inspectors to make themselves available such long hours, particularly on Sundays and holidays when other citizens are vacationing, adequate monetary incentive must be provided. The most recent data collected by Customs shows that Inspectors are earning, on the average, 2.1 times the regular rate of pay on Sundays and 2.4 times the regular rate on the other days of the week. The Customs' study attributes the 2.4 rate of pay to the call-back of Inspectors who have left the worksite. Such call-backs frequently occur at night and at irregular hours, taking a physical toll of the Inspector. The study also confirms that the average Inspector works 7 hours on each Sunday assignment, and an average of 8 hours if holidays are included in this figure.

We are convinced that the frequent call-backs, the late-night hours spent away from home, and the physically demanding nature of inspectional

duties justifies the present rate of overtime pay. Moreover, these rates of pay conform with the prevailing overtime rates in the private sector, which normally establishes double time premiums for call-back and night work, and where the typical practice is triple time for Sunday overtime and double time and one-half for holiday work.

Nevertheless, the Administration has recommended a joint Customs/INS inspectional overtime bill which would establish the rate of pay for inspectional overtime essentially at time and one-half. We believe such provision would not only be unfair to Inspectors, but would reduce the incentive to continue to work long hours at a time when the Service is stretched thin and already lacks adequate staff. Such proposals only go to show how insensitive and callous this Administration can be. We would like to offer those who helped prepare this proposal the opportunity to work with a Customs Inspector for just one day at one of our airports. We believe they would begin to question the desirability of perpetrating this outrage. We urge the Subcommittee not to be deceived by their specious claims, and to firmly reject any attempt to modify the rates of pay specified in the Act of 1911.

We also urge the Subcommittee to remove the $25,000 cap on Customs Inspector overtime earnings. The overtime cap has long outlived its usefulness.

Proponents of the cap claim to be acting in the employee's interest but limiting the amount of overtime Inspectors could be compelled to work. However, the overtime cap had exactly the opposite effect and completely eliminated the voluntary aspect of overtime. This is because

Inspectors are required to rotate overtime assignments so that the earnings of all can be equalized.

Prior to imposition of the cap, Inspectors were able to work out an allocation of overtime duty which took into account their personal needs. Inspectors who wanted to earn more money and were willing to sacrifice their free time or work late at night volunteered for overtime, while Inspectors who had family obligations or other commitments did not. And although this system lead to an imbalance in earnings, morale, efficiency, and productivity were greatly enhanced.

We strongly believe that employees willing and able to work overtime without foregoing family obligations should be permitted to do so, and that the burden of forced overtime should be minimized. Morale at the workplace is fostered by allowing individual preferences to play a greater role in the assignment of overtime, not by a rigid policy of equalization of earnings.

For the past two years, Customs itself has urged Congress to remove the overtime cap. Treasury Department officials have testified that, in addition to costing $1 million a year to administer, the cap is preventing Customs from properly allocating its limited resources among ports experiencing different rates of growth. It should also be noted that over 50 percent of all overtime is reimbursed to the government by the carrier which requests clearance after normal port hours.

Last year, Customs asked for administrative flexibility in use of the cap, stating that it would save the government money. The delegation of authority to waive the cap was granted by Congress. We submit that the

time has come to remove the cap completely, in favor of Customs internal controls. We strongly urge the Subcommittee to adopt this course of action.

TARIFF AND TRADE

The importation of foreign merchandise into this country now stands at the highest level in history. In the seven-year period between 1976 and 1983, merchandise imports doubled. In 1965, 4.3 percent of manufactured goods were supplied from abroad. By 1980, this figure was 13.5 percent.

The U.S. merchandise trade deficit stood at $42.7 billion in 1982, rose to $69.4 billion in 1983, and could reach $120 billion this year according to economists. The change is mirrored in the fierce competition experienced by U.S. industries. In 1965, the U.S. exported five times more machine tools than it imported. It now imports more than twice what it exports. U.S. motor vehicle parts suppliers had a positive trade balance of $2 billion in 1980, and a -$1.5 billion in 1983.

In consumer electronics, textile machinery, industrial fasteners, and footwear, imports are now 50 percent of consumption and rising at 13-26 percent per year. Steel imports are now 20 percent of consumption and growing at 10 percent a year. In basic steel, 200,000 jobs have been lost since 1978.

According to a recent Data Resources Institute (DRI) study, virtually every U.S. industry has suffered from a major worsening of import penetration. A large segment of American industry, 60-75 percent by some estimates, must now compete actively with firms based abroad either in world markets or at home, according to former Treasury official Fred Bergsten.

DRI estimates that the decline in U.S. manufacturing due to imports will cost up to 2 million jobs this year. The attendant loss of manufacturing capacity is "de-industrializing" the nation's economy. Said DRI:

> "A nation that casually surrenders leading industrial positions through policies of neglect will find it difficult to stage a comeback."

These developments pose large issues of public policy that relate directly to Customs' commercial trade law enforcement. As Chairman John Dingell asked the House Energy and Commerce Committee:

> "Is it feasible to rebuild the so-called smoke stack industries, such as steel, if domestic manufacturers cannot be protected against unfair competition from dumped imports? And...
>
> "Is is realistic to count on continued high capital investment and resulting economic expansion in the high technology sector if the fruits of the costly research spending are stolen by foreign competitors?"

Commercial fraud embraces a host of illegal activities aimed at circumventing our trade laws, such as misclassification of merchandise to evade tariff or quota, evasion of anti-dumping or countervailing duty investigation, false labeling, document forging, and product counterfeiting. With lax commercial fraud enforcement, the dice are loaded against American

industry. Effective commercial fraud enforcement is not a protectionist measure. It is a matter of justice, requiring proper enforcement of our trade laws.

In this area, Customs has been exposed in recent months like the emperor with no clothes. The scandalous lack of Import Specialists, who are the backbone of Customs' trade law enforcement, has prevented the proper review of entry documentation for half the merchandise entering the country. Coupled with this is the inability to inspect all but a tiny fraction of the cargo.

In a headline story by the Media General News Service last year, U.S. trade officials who declined to be identified stated that Japan and other countries are illegally shipping hundreds of millions, and possibly billions, of dollars in imports annually into the United States past the Customs Service. One U.S. trade official said Customs could assess fines against "one Japanese trading company a week if they had the resources". Customs' new commercial fraud program is catching only a miniscule proportion of violators, according to these sources.

Customs has tried to cover up its failure by launching a stepped-up commercial fraud program, Operation Trip-Wire, but the revelations of the Oversight and Investigations Subcommittee of the Energy and Commerce Committee show that effort to be nothing more than a fig leaf. Called on the carpet by his business constituency, the Customs Commissioner has cranked up new programs -- now for textiles, now for steel, now for electronics. Unfortunately for Mr. Von Raab, he can run but he can't hide.

If Mr. Von Raab and his cronies had shown as much enterprise in fighting Treasury and OMB for a realistic Customs budget for commercial fraud

enforcement as they are in starting new programs with fancy names to pretend they are making progress, our nation's economy would be far more secure than it is today. It is interesting that when Customs set up its Commercial Fraud Enforcement center and regional enforcement teams, the individuals it called upon were the Import Specialists -- a group it has downgraded, reshuffled, decimated, and demoralized for the past four years. Suddenly, it seems, Customs management is relearning that the backbone of commercial operations is the Import Specialist.

NTEU has brought the growing shortage of Import Specialists relative to rising entry workload, and the disastrous policy of "by-pass" by which Import Specialists do not review 50 percent of entries, to the attention of this Subcommittee for the past four years. The dimensions of the problem have now become painfully obvious. Relative to Hitachi's attempt to acquire design information and component parts of IMB's latest generation of business computers, Chairman Dingell wrote Chairman Roybal last year:

> "As recorded on tape, the FBI undercover agent asked senior Hitachi engineers how they planned to get past Customs, what they beieved to be stolen IBM component parts, which were the size of a pool table. Amidst laughter, the Hitachi officials stated that U.S. Customs is no problem."

Just recently, the U.S. International Trade Commission and the House Oversight and Investigations Subcommittee both released reports on the flood of counterfeit products entering the U.S. market. The ITC said that counterfeit goods cost U.S. companies $6-8 billion a year and the loss of 131,000 American jobs. The House Subcommittee said that the U.S. auto parts industry estimates that it loses $3 billion in sales each year

because of counterfeit products and that "dangerously substandard parts" for helicopters have been faked. Said Chairman Dingell:

> "Any American who drives a car, flies in an aircraft or depends upon a wide range of medical devices, pharmaceuticals, or personal care products is placed in jeopardy because of substandard and dangerous foreign counterfeit products."

Calling funding for the Customs Service "woefully inadequate", Mr. Dingell said that "the decline in this country's international competitiveness is due, at least in part, to inadequate policing of our laws against illegal and unfair foreign trade practices." The Reagan Administration's budget plan to cut the number of Customs employees is "a form of fraud against the American worker and consumer." The Chairman has recommended a $29 million increase above full restoration of the cuts.

Shocked into action by Customs' inability to deal with a torrent of fraudulent imitations, many companies have hired their own investigators. Undercover witnesses at the Dingell hearings told how U.S. electronics technology is stolen, copied and exported back to this country. Apple Computer investigators identified one plant in Taiwan capable of producing 3,000 fake Apple computers each month. When fake Apple computers appeared recently in Philadelphia, the company's agents tipped off Customs and a large quantity which had been shipped concealed as machinery was seized. The U.S. manufacturer of "Cabbage Patch dolls" led Customs to the importer of counterfeits which were unsafe by U.S. standards for flammability. Such efforts are a measure of the cost to U.S. industry of dealing with a problem that Customs lacks the resources to cope with.

Steel fraud is pervasive. The Chairman of the Steel Caucus, Senator John Heinz, told the Dingell committee that there are currently 40 active cases of

steel import fraud under investigation. Describing the lack of physical facilities at U.S. ports for detecting fraud, and lax enforcement resulting in only minor slaps on the wrist, Senator Heinz concluded that:

> "Investigations proceed at a snail pace, fines are inconsequential, convictions rare, resources shrinking and the deterrent nill. Our government has unwittingly issued an invitation to 'fraud without fear'".

Senator Heinz pointed out that Commerce Secretary Baldridge had stated that aggressive enforcement of our trade laws could limit steel imports to 15 percent of the U.S. market. Customs' resources are inadequate to the task, and:

> "Customs has compounded the problem by proposing a program to drastically reduce the manpower levels of Import Specialists at the same time it has proclaimed import fraud as an area of renewed emphasis. Import Specialists are essential to fraud detection and they need additional support, not lip service. And they certainly do not need cutbacks."

This view was echoed by the Dingell committee which said:

> "When faced with the problem of unfair trade practices which result in a substantial loss of revenue to the government, the agency has apparently chosen to reduce entry document scrutiny rather than increase personnel."

The Dingell committee also faulted mis-utilization of Import Specialists which led to loss of expertise.

> "Certain ports, notably Chicago, have adopted a system of rotating the Import Specialists' commodity assignments, thus reducing whatever expertise may remain....In one port with a very large textile and apparel fraud problem, the number of import specialists has been reduced to three. In addition, one was given the assignment of monitoring apparel imports for most of the world after only one week's training. In another port which handles a large volume of steel, an Import Specialist with only a few months of experience and virtually no expertise in steel was given that commodity line....Part of this system is the 'by-pass' program, under which the entry documents are not reviewed at all. There is great pressure on district directors to increase the number of entries on 'by-pass'. 'By-pass' guidelines are built into the performance evaluation

> requirements for Import Specialists in some ports. Even where they are not, the 'by-pass' goals often exceed 70 percent of all entries of non-restricted merchandise. To me, this would appear to be a license to steal."

On behalf of the Import Specialists of the U.S. Customs Service, I am here to tell you that Mr. Dingell is dead right. Customs management seems determined to destroy the priceless expertise of the small corps of Import Specialists who are the nation's principle defense in these difficult times. By failing to fill Import Specialist vacancies, cutting off Import Specialists from the trade community by centralizing them at only a few ports, downgrading their role through by-pass systems, and introducing "import generalists" and "industry import specialists", Customs is gradually destroying the talent and expertise upon which the nation must depend to deter and prevent commercial fraud.

Two examples are the so-called "centralization of appraisement" and automated broker interface (ABI). Customs has once again come forward with a plan to close, or reduce the number of Import Specialists assigned to, many "appraisement" (Commercial Operations) offices around the country. Such action would not only have a drastic impact on the business community, which relies upon face-to-face contact with Import Specialists, but it would also reduce the number of visits to importers' premises which are important for proper classification and value decisions, and correction of broker errors. The 7,000 or 8,000 visits to importers' premises made by Import Specialists each year alone produce enough revenue to finance the entire Import Specialist payroll. Moreover, being based at ports of entry enables Import Specialists to team with Inspectors as a powerful deterrent to commercial fraud. All

told, Customs has proposed 23 locations for centralized appraisement or reduction of Import Specialists in FY 1985.

Last year, Congress rejected this Customs plan and barred the use of funds to implement it. We strongly urge the Subcommittee to legislate a permanent prohibition this year.

The automated broker interface (ABI) allows Custom house brokers, representing importers, to electronically transmit data to Customs. The system is in use, or planned for use, at New Orleans, Buffal Houston, Philadelphia, and Baltimore, with plans for expansion nationwide. Import Specialists have always strongly supported sensible automation efforts in the past, but in view of Servicewide by-pass requirements and continued high rates of broker errors on entry documents, most of which favor the importer, they fear that this new system will not provide adequate scope or judgment in processing entry documents. The result would be inadequate control over quota and restricted merchandise, loss of revenue, and reduced accuracy of trade statistics.

To illustrate, if a broker doesn't enter the right tariff classification, and the merchandise is of a type that requires sampling to determine admissibility, samples won't be taken and the product will enter. On by-pass, the Import Specialist might not even see the entry. In this way, the system loses control.

Candy can be classified into 20 different categories under the tariff schedules, ranging from 0-17.5 percent duty. If the broker's clerk makes an error, and only a Customs clerk reviews the entry under by-pass, the scope for

error is obvious. In the past, scissors have been invoiced as hand tools. Sugar is invoiced as cookies; the entry for cookies is by-passed, but sugar is under quota.

Customs management objects to pre-entry review by Import Specialists of brokers' documentation. But this practice gives the Import Specialist the ability to correct errors in classification and value, and ensure accurate trade statistics are reported to the Census Bureau.

There have been many studies and tests by Customs which have documented various broker error rates, normally averaging about 30 percent. Nevertheless, Customs does not seem to have developed ABI with quality control in mind. The problem is compounded by the by-pass system. The Dingell committee drew attention to this problem by recounting a test made by Customs last year.

> "Last spring, an experiment with 100 percent by-pass was carried out in the Chicago district. For 30 days, all entries of non-restricted merchandise were accepted as submitted. The Import Specialists then had 30 days to review these entries. Under the pressure of a doubled workload, the error rate uncovered was 21 percent. Even more important, Customs brokers and large importers had been officially notified of the test, thus skewing the results toward fewer errors. Moreover, 35 percent of all entries were on by-pass, and these were excluded from the test. The government collected $1,500,000 in duties that would have been lost under 100 percent by-pass."

The solution to these difficulties lies in 1) ensuring an adequate number of Import Specialists, 2) upgrading their role and maintaining their expertise, 3) distributing them more widely among the business community rather than centralizing them in fewer locations, 4) reducing the by-pass rate to an acceptable level, 5) ensuring that Import Specialists review all entries to determine whether by-pass should be

made, 6) allocation of sufficient Import Specialist staff-years for pre-entry review and adequate quality assurance, and 7) consulting with Import Specialists before planning further development of the Automated Commercial System (which includes ABI) so their collective expertise can be brought to bear in shaping this new system.

NTEU has completed two new studies of the adequacy of the number of Import Specialists to process the growing entry workload and to deter commercial fraud. The first analysis is presented in Table 3, appended to our testimony. It shows that while the number of merchandise entries will double from three million to six million between 1975 and 1985, the number of Import Specialists will decrease from 1,262 to 1,042 at present funding levels, and to 875 if the Administration's budget is adopted. Assuming an average annual rate of productivity growth of 4.3 percent per year, the number of entries each Import Specialist would be capable of processing in 1985 would be 3,900 entries. Dividing this into the entry workload yields 1,535 Import Specialists required as a minimum adequate staff, which is 500 positions above the present level.

At the request of the House Energy and Commerce Committee, NTEU also developed estimates of the number of Import Specialists, Customs Inspectors, and Special Agents required for adequate enforcement and deterrence of commercial fraud at three different enforcement levels. The results of this analysis are shown in Tables 4 to 7, appended to our statement. Table 5 shows the number of Import Specialists required when the rate of by-pass is 20 percent, 25 percent, and 35 percent. For 20

percent by-pass, 1,400 Import Specialists would be required, or 358 above the current level.

The average rate of revenue return per appropriated dollar throughout the Customs Service is $17 to $1. Assuming a marginal rate of return of just half this amount, the additional revenue that would be produced by 358 more Import Specialists would be $161,500,000.

NTEU believes that Congress should establish as a goal an additional 500 Import Specialists, to be attained over a three-year period. Last year, 150 additional Import Specialists were authorized, but funds were not appropriated. We again strongly urge the Subcommittee, in the face of the massive trade law enforcement problems facing the nation, to allow an additional 150 Import Specialists above the current level for Fiscal Year 1985.

TACTICAL INDERDICTION

The dedicated men and women of the Customs Patrol are responsible for the interdiction of narcotics and contraband entering the United States by air and sea or across our land borders. Patrol functions include air and marine interceptions, covert operations, participation with contraband enforcement teams in cargo enforcement operations, participation in Exodus and commercial fraud task forces, and use of mobile strike teams to respond to smuggling activities.

Special action units of the Customs Patrol are designed to ferret out activities which evade normal Customs processing. These special action

units possess unique knowledge of cargo movement and documentation, vessile search and surveillance procedures, smuggling and other criminal techniques, and ability to operate from aircraft, ship, and surface vehicles. They work hand in glove with other elements of Customs, spanning the gap between inspections and investigations.

As we have previously stressed, Customs Patrol Officeers at land ports of entry are specially trained to support the Customs mission. The Administration's proposal to transfer 165 of these positions to INS would gravely weaken narcotics, Exodus, and commercial fraud enforcement efforts. These specialized resources should be left within Customs, and we strongly urge the Subcommittee to bar their transfer.

Last year, the Commissioner of Customs testified before the Select Committee on Narcotics Abuse and Control on the serious threat of narcotics smuggling by ship in our coastal areas. The Commissioner stated, "The threat we face in the marine area is again tremendous, it's one particular area where we are going to try and beef-up our resources."

We were therefore surprised to see that the Customs Tactical Interdiction function, and particularly the marine program, are scheduled for cutbacks totalling 32 positions and $1.8 million. According to Customs, this reduction will be achieved by a more selective number of special operations, utilizing them to combat only the most critical enforcement problems, and by organizational realignments.

We believe that in view of the major drug threat, and the deterrent to smuggling and criminal activity provided by the marine patrol, these

cuts are unwise and should be rejected. The alternative budget we have presented restores these cuts completely.

A final question remains with respect to the Customs air patrol. This vital program must continue to be strongly supported, and we commend the Subcommittee for its efforts in developing a second Customs air module as well as procurement of aircraft, radar, and other assets from the Department of Defense.

However, the Customs budget for Fiscal Year 1985 is predicated upon receipt of $11 million from the Department of Defense for operation and maintenance of the Customs air support program. Our inquiries have disclosed that this matter is still under consideration by DOD, and no interagency agreement has yet been completed. We believe the assumption that DOD will provide this funding is unwarranted at this time, and we urge the Subcommittee to provide this amount in the Customs budget. The alternative budget we have presented includes this sum.

We have earlier described the vast dimensions of the commercial fraud threat to this country. Countering this threat will require strengthened enforcement of Customs patrol at air, land, and sea ports of entry. We need stronger patrol of our docks and harbors, and better surveillance of bonded warehouses and foreign trade zones. The Dingell Subcommittee has stated:

> "That serious problems existed with bonded warehouses should be no surprise. Lax enforcement in previous years had led to several scandals involving goods disappearing from bonded warehoues.
>
> "Customs officials experience even more problems with foreign trade zone warehouses. These are intended to house merchandise for re-export. It is Customs' policy not to inspect the goods as they enter or leave the zones. In one part of the country, counterfeit

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> jeans were being sold in the foreign trade zone. Shirts reportedly scheduled for trans-shipment to South America were on their way to New Jersey when discovered. Perfume was magically transformed into baby shampoo and sand in another warehouse. Stories abound of containers full of goods entering foreign trade zones and exiting empty or filled with other goods. Falsification of paperwork appears to be a simple matter."

Customs will not get a handle on this problem without more special enforcement operations, strengthened contraband enforcement teams, and investigations in which Customs Patrol Officers participate. We believe there should be a long-range plan for strengthening this arm of the Service, and we ask the Subcommittee to approve 50 additional positions above restoration of 32 positions cut by the Adminstration, in Fiscal Year 1985. The funds for these positions are contained in the alternative budget we have presented.

- Congress should set as a goal achievement of the following increases in Customs over the next three years:
  - a. 1,500 Inspectors as follows:
    - (1) 350 positions for airports (based on the Air Transport Association's recommendation of 236, plus 114 additional positions for passenger and cargo growth, staffing of new gateways, and assumption of INS primary inspections);
    - (2) 300 positions for land border ports (based upon Customs' study that 286 positions are required for assumption of INS primary inspections, see text p. 21);
    - (3) 450 positions for commercial fraud enforcement (based upon NTEU's study of the number required to raise the inspection rate for containerized shipments to 3.5 percent, see Table 4);

(4) 100 positions for export control (based upon the minimum required number of Inspectors for the Exodus program);

(5) 300 positions for inspection of warehouses and foreign trade zones (based upon number of positions in former Customs warehouse program).

b. 500 Import Specialists (based upon NTEU's studies at Tables 3 and 5).

c. 200 Customs Patrol Officers (for narcotics and commercial fraud enforcement).

d. 100 Special Agents (primarily for commercial fraud enforcement).

SUMMARY OF NTEU'S RECOMMENDATIONS

NTEU recommends:

o Approval of $693,443,000 and 14,073 average positions for Customs for FY 1985. This is an increase of $91 million and 1,704 average positions above the Administration's budget request. The increase includes $56 million and 954 average positions to restore cuts made by the Administration and maintain current operating levels. It also includes an additional $35 million and 1,704 average positions for 450 Inspectors, 150 Import Specialists, 50 Customs Patrol Officers, and 100 Special Agents to strengthen Customs enforcement. It also restores $5 million cut by the Administration from the Exodus program.

- As the nation's principle border management agency, Customs should be assigned primary inspection responsibility at all ports of entry. The plan to consolidate primary inspections within Customs at air and sea ports should be approved and implemented, but the plan to transfer primary inspection responsibility and Customs Patrol positions at land ports to INS should be rejected. Customs should be assigned responsibility for primary inspection at land ports of entry, thereby freeing resources for the Border Patrol, which could concentrate on its mission of apprehending illegal aliens between ports of entry.

- The Subcommittee should initiate a full inquiry into the ACCEPT program, and not authorize Customs to proceed with this program except in accordance with an approved plan, including phasing in of additional inspectional resources, to deter and minimize narcotics smuggling and commercial fraud.

- The Customs warehouse program should be re-instituted, and there should be a greater Customs presence in foreign trade zones, as a deterrent to commercial fraud.

- The Subcommittee should direct that Customs immediately establish criteria, and allocate sufficient Import Specialists, to ensure no more than 20 percent by-pass of merchandise entries in FY 85. Import Specialists should review most entries to determine whether by-pass is appropriate. If the number of Import Specialists is insufficient to

achieve this goal, Customs should so notify the Subcommittee so that it may make an appropriate recommendation in Congressional consideration of Treasury's supplemental appropriation request for FY 1985. Customs should be required to evaluate the results of 20 percent by-pass, including impact on revenue and commercial fraud prevention, in order to permit Congress to determine whether this rate should be adjusted.

- The Subcommittee should direct Customs to upgrade and strengthen the Import Specialist's role as the backbone of commercial operations, including measures to enhance professional development and improve expertise in the various commodity lines.

- The Subcommittee should permanently bar the centralization of Customs' appraisement locations, and require Customs to give six-months notice of any planned port or office closures.

- The Subcommittee should mandate allocation of a sufficient number of Import Specialists for pre-entry review of brokers' documentation, in order to minimize broker errors; provide for review and correction of data entered under the automated broker interface program; and consult with Import Specialists to design a quality assurance program for the Automated Commercial System (which includes ABI) to maintain the integrity of classification and valuation requirements, tariff and quota controls, data required for anti-dumping and countervailing duty determinations, and accuracy of foreign trade statistics.

Senator DANFORTH. What is the effect on the morale of the employees of the Customs Service regarding the practice of RIF'ing the employees and cutting back the budget?

Mr. TOBIAS. Mr. Chairman, the main impact is that the U.S. Customs Service has been able to attract people who are interested in law enforcement and law enforcement activities. And when they are told, yes, you will be a customs inspector, and they are trained to perform a particular task, and then in reality, cannot perform that task, it has a serious adverse impact on them. It would be as if I were trained to be a U.S. Senator, and then were only allowed to vote half the time. And that is the way the U.S. customs inspector is. They can't do their job because there aren't enough of them to process the baggage There aren't enough of them to conduct the inspections. There are not enough import specialists to perform their functions. So, people cannot perform the duties they are assigned. And it has a very depressing effect, a great impact on morale.

Senator DANFORTH. Do you think that there is room here for greater efficiency in trying to relieve the customs inspectors of the paperwork burden? You said that about half of their time is in processing paperwork. Commissioner von Raab wants to try to streamline that process so there is less time spent on paperwork. Is there room for improvement in this area?

Mr. TOBIAS. Of course. There is always room for improvement in the processing of paperwork, but where we disagree with the administration is that—and apparently our disagreement is with OMB and not with Mr. von Raab—is that notwithstanding greater efficiencies in processing paperwork, we still need more people to deal with the increased imports, with the increased responsibilities, with the——

Senator DANFORTH. I am not debating that. I am just talking about—let's assume there are *x* number of employees that will be somewhere between 12,369 and 14,098, and that is the spread, whatever there is. Is there a lot to be said for trying to improve their efficiency and streamline the operations so there is less paper and more time spent actually doing the job?

Mr. TOBIAS. Yes. Absolutely. Certainly there is. There is always——

Senator DANFORTH. You don't quarrel with the notion of trying to target the work that they are concentrating on in areas that are more productive than what Commissioner von Raab said—harassing law-abiding people?

Mr. TOBIAS. Where we disagree again, Mr. Chairman, is not that some people be targetted, but that the target is so narrow, and it also is in the way the targetting is done in that it removes the discretion from the people who are out there on the line to say your target, in this particular situation, should be expanded to include this shipment, and the target—when you are talking about under 3 percent—is a very small target area that you are looking at. So, we are not talking about harassing legitimate people. We are talking about such a narrow target that I think the law is not being sufficiently enforced.

Senator DANFORTH. As I think you got from the nature of the discussion with the Commissioner, there is real interest in the efficacy of the Customs Service. And while we are trying to cut the budget

wherever we can, there is a recognition, I think, on the part of members of this committee, that there is a point beyond which we cannot go in our desire to see that the Service is operating effectively.

I just want to say one thing in conclusion. I have gone through Customs any number of times, and I have seen hundreds and hundreds of people go through customs in a number of ports of entry in the United States. And when people go through customs, they are people who have been traveling oftentimes for hours on end. They have gotten off the plane. They have wrestled around with their baggage. They have fought to find baggage carts and to get the bags up to the customs desk, and it is oftentimes one of the most nerve-wracking experiences for people to go through. Then after all that, they have their personal bags checked by total strangers. Given all of that challenge, I have never seen a situation where a customs inspector has not been polite and really solicitous and understanding of the people coming through. That is not to say that they have been blind to what is going on. They haven't been. They have been effective, but I think that it really speaks well for them and their sense of professionalism and their training and everything else that goes into making a good employee of the Federal Government that they are able to handle, sometimes, the most stressful of circumstances, in a good and accommodating way.

People who travel and people who come into this country—that is the first thing they see of America. I mean, to go into Canada, for example, which is a total madhouse—just an absolute mess—it is kind of a disgrace, as a matter of fact—but the one bright spot of the whole operation is the Customs Service. That is, if people can ever find their bags and get a cart, shoving other people out of the way to get a cart and get the bags up to the Customs Service, at long last they are with people who know what they are doing.

So, I just wanted to say that. I think that you represent some very, very effective public servants, probably often maligned, but I think that they really do a first-rate job.

Mr. TOBIAS. Thank you very much, Mr. Chairman. We appreciate that.

Senator DANFORTH. Thank you.

[Whereupon, at 4:45 p.m., the hearing was concluded.]

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March 19, 1984

Roderick A. DeArment
Chief Counsel
Committee on Finance
Room SD-219, Dirksen Senate Office Building
Washington, D.C. 20510

Re: Subcommittee on International Trade Budget Requests
for Customs Service ITC and USTR
Hearing held March 12, 1984

Dear Mr. DeArment:

Enclosed on behalf of Eric Ridder, please find a copy of a statement to be included in the hearing record for the Customs Service FY 1985 Authorization Legislation.

If you have any questions, please call Janie Kinney or me.

Sincerely,

Ronald L. Plesser

RLP/pq
Enclosure

STATEMENT OF ERIC RIDDER, PUBLISHER,

THE JOURNAL OF COMMERCE

ON CUSTOMS SERVICE FY 1985 AUTHORIZATION LEGISLATION

Mr. Chairman and members of the Subcommittee on International Trade, this statement is submitted on behalf of Eric Ridder, publisher of The Journal of Commerce, the daily business newspaper of the Knight-Ridder Group, and the Import Bulletin, a weekly report on imported goods arriving at U.S. ports. The Journal's headquarters are located at 110 Wall Street, New York, New York 10005.

Our statement concerns the need for better public access to information about goods coming into the United States. We support a non-controversial amendment which would assure public access to certain information about imports. The information will be obtained from import manifests filed with the Customs Service when goods arrive in the United States. Such a provision would also provide methods to protect claims of business confidentiality and other sensitive information included in the manifest.

Better access to import information will benefit U.S. manufaturers competing with foreign importers. It will also help U.S. port authorities and land-based transportation companies identify potential customers and determine where and when to allocate resources.

Identical language was contained in last year's Customs' authorization bill, S. 1295, as sponsored by Senator John Heinz. This language was also included as a section in the miscellaneous tariff and trade bill passed last year by the House and included as a part of the Senate version of that bill reported by the Finance Committee. Unfortunately Senate action on the FY 1984 Customs Service authorization bill and the miscellaneous tariff and trade bill is uncertain for reasons unrelated to the manifest information provisions. Given the uncertain future of the bills, we urge the Subcommittee to include the language of S. 1295 in the Customs Service authorization bill for FY 1985 to rationalize import trade information data procedures. Moreover, while there has been a settlement of our litigation concerning access to this information with the Customs Service, several issues remain unresolved and continue to require legislative solutions. Specifically, Congress needs to codify certain data to be included in the manifest and to codify the procedures for protecting the confidentiality of certain data about the importer or consignee.

Our position is strongly supported by port authorities and transportation companies. In addition, the Joint Industry Group this year also has testified on behalf of this amendment and they strongly support it.

The suggested language, now part of S. 1295, and suggested for inclusion in the Customs Sevice FY 1985 Authorization Legislation can be described as follows:

Description of Information to be Disclosed

The following information will be available for public disclosure when it is included on the manifest: the name and address of the shipper, the general character of the cargo, the number of packages and their gross weight, the name of the vessel or carrier, the port of loading, the port of discharge, and the country of origin of the shipment.

Protection of Importer and Shipper Identity

The name and address of both the importer and the names of and address of the shipper may not be disclosed if a certification requesting confidential treatment of this information is filed by the importer. The certification must be renewed every two years.

Protection of Other Information

None of the information listed above will be disclosed if the information is classified as defense or foreign policy information pursuant to 5 U.S.C. 552(b)(1) or if disclosure on a shipment-by-shipment basis is likely to pose a threat of personal injury or property damage.

Implementing Procedures

The Secretary of the Treasury is required to establish procedures to ensure timely access by publications to manifests so that information listed above can be published. These procedures must provide a means of protecting that information which is not available for public disclosure.

* * *

We appreciate this opportunity to again bring this important issue to the attention of the Subcommittee. We look forward to working with you to see that appropriate legislation is enacted this year.

U.S. Council for an Open World Economy
INCORPORATED
7216 Stafford Road, Alexandria, Virginia 22307
(202) 785-3772

Statement submitted by David J. Steinberg, President, U.S. Council for an Open World Economy, to the Subcommittee on International Trade of the U.S. Senate Committee on Finance in hearing on Fiscal 1985 budget authorizations for international-trade functions.
March 12, 1984

(The U.S. Council for an Open World Economy is a private, non-profit organization engaged in research and public education on the merits and problems of developing an open international economic system in the overall national interest. The Council does not act on behalf of any "special interest".)

This statement is limited to the International Trade Commission, specifically the structure of the Commission and the adequacy of ITC investigation and analysis in import-relief cases.

We question the need for six commissioners (the statutory complement). The Commission has got along well with four or five commissioners at various times in its long history. It might operate more efficiently with fewer than six commissioners, and each seat terminated would save the taxpayers more than $100,000 a year when the total costs of each commissioner's office are considered. If the President does not wish to get the number of commissioners reduced, he at least should move diligently to fill the vacancies that occur in the panel of commissioners. There were three vacancies a year ago. There were two a month ago, with no nominations pending. I am glad to see that, in the month since I expressed concern about this performance in a statement I submitted to the House Committee on Ways and Means concerning Fiscal 1985 budget authorizations in this field, two nominations have been sent to the Senate. However, the long delay leaves me less than impressed with the attention the White House has given this matter. The need for an efficient, high-quality ITC has not been getting the attention it deserves from both ends of "the Avenue".

We question the statutorily required rotation of the ITC chairmanship (and vice chairmanship) every two years. Each commissioner is not ipso facto qualified to be chairman. Nor is biennial rotation conducive to development of effective leadership by the person who serves as chairman. We also question the role of a professional staff (including a legal advisor) for each commissioner. We understand that each commissioner is authorized to have four persons, of whom no more than one can be higher than GS-15 and no more than one additional person can be higher than GS-14. We question the need for such private professional staffs when account is taken of the full access each commissioner has to the Commission's

formidable legal and economic personnel. We suggest Congressional inquiry into the possibility that these private staffs have led to undesirable rivalries between the respective staffs of the commissioners, and adversarial relations between commissioner staffs on the one hand and the Commission staff on the other -- affecting adversely the quality and utility of commissioner opinions in import-relief and other cases. The budget savings from reducing or eliminating these personal professional staffs may be of little consequence. But, even if this be the case, it is no justification for neglecting inquiry into the desirability of such reform. The money saved in reducing or removing these private staffs might be spent more productively in strengthening the economic and legal staffs of the Commission per se.

The Commission is not fulfilling its explicit and implicit obligations under the Trade Act of 1974 in import-relief investigations. It is neglecting the full implications of Section 201(b)5 of the Trade Act by not fully assessing the adequacy of steps the petitioning industry has taken toward becoming more competitive with imports, and not assessing the extent to which government statutes and regulations may be impairing the industry's adjustment capability. Also neglected is assessment of the differential impacts which import restriction may have on different sectors of the industry. Windfall gains for sectors that may not need government help may cause additional problems for those that do.

Not all these analytical factors may materially affect the Commission's decision in every case, but all are important for the President to take into consideration if he wishes to develop a coherent industry-adjustment policy with respect to the petitioning industry, whether or not the Commission finds serious injury or threat thereof, but particularly if it does. Such an adjustment strategy (developed in conjunction with management and labor) should be the framework for any resort to import control, and the trade legislation should so require. However, the President is free to proceed along these lines even without a legislative mandate, and the ITC should want to help him in this regard in every way it can. Nothing in the trade law prevents the Commission from undertaking the kind of analysis suggested in this statement. However, the Commission has been less imaginative and innovative, and less helpful to the President, than it can and ought to be in this respect.

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